Initial Study/Mitigated Negative Declaration

Berryessa-Jackson Commercial 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

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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 Berryessa/Jackson Commercial 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 San José, California.

The project proposes to construct a commercial development at the corner of Berryessa Road and Jackson Avenue. 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:

City of San José
Kara Hawkins
200 East Santa Clara Street
San Jose, CA 95113
Kara.Hawkins@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

Berryessa Plaza

2.2 LEAD AGENCY CONTACT

Kara Hawkins
200 East Santa Clara Street
San Jose, CA 95113
Kara.Hawkins@sanjoseca.gov
(408) 535-7852

2.3 PROJECT APPLICANT

Mr. William Chan
Berryessa Property LLC
1261 Martin Avenue
Santa Clara, CA 95050

2.4 PROJECT LOCATION

Southeast Corner of Jackson Avenue and Berryessa Road in San José. The regional and vicinity maps and an aerial of the site are shown in Figures 2.4-1, 2.4-2, and 2.4-3.

2.5 ASSESSOR'S PARCEL NUMBER

APN 254-80-021, 022, 023

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

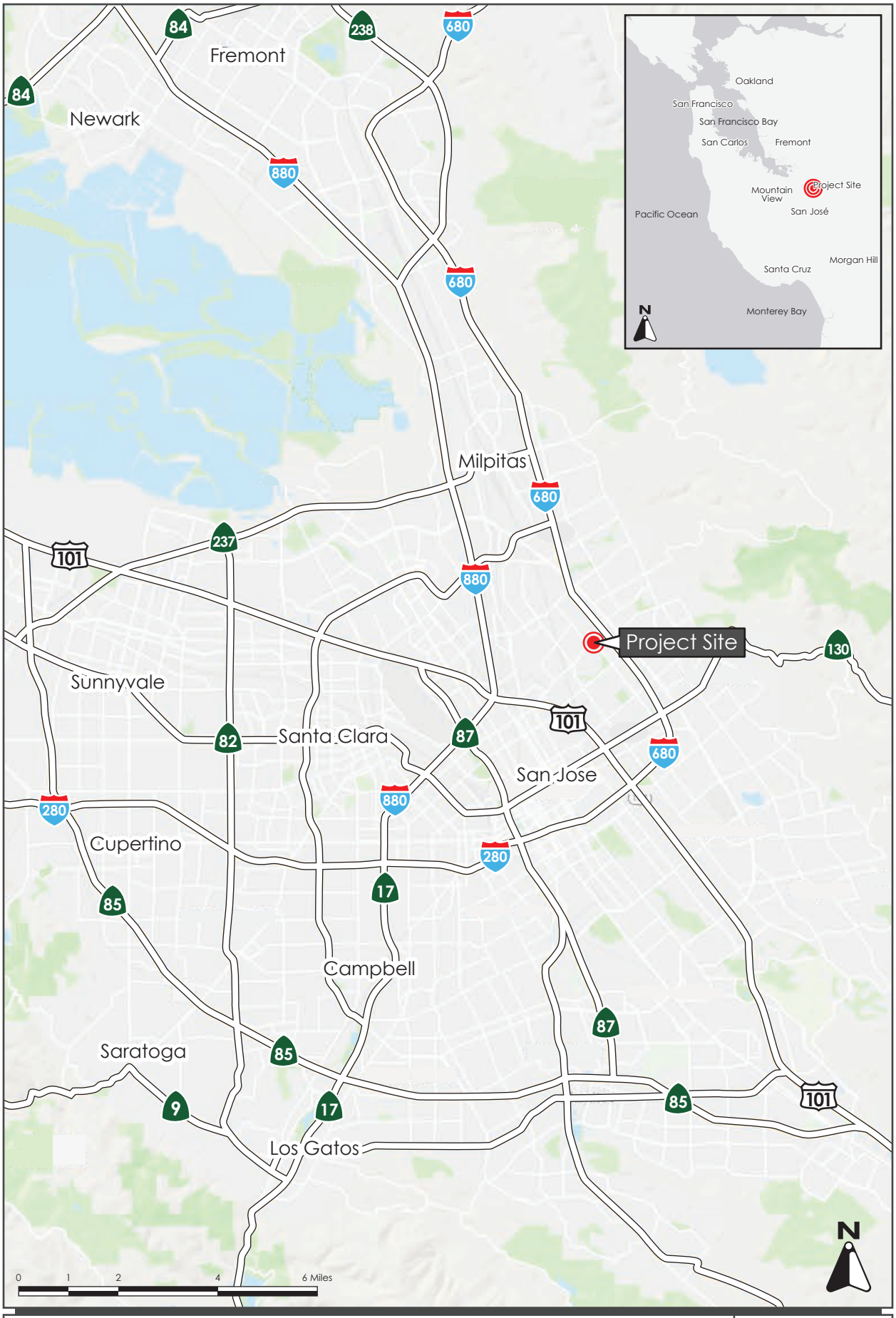
General Plan Designation: Neighborhood/Community Commercial
Zoning Designation: Planned Development [A(PD)COM]

2.7 HABITAT PLAN DESIGNATION

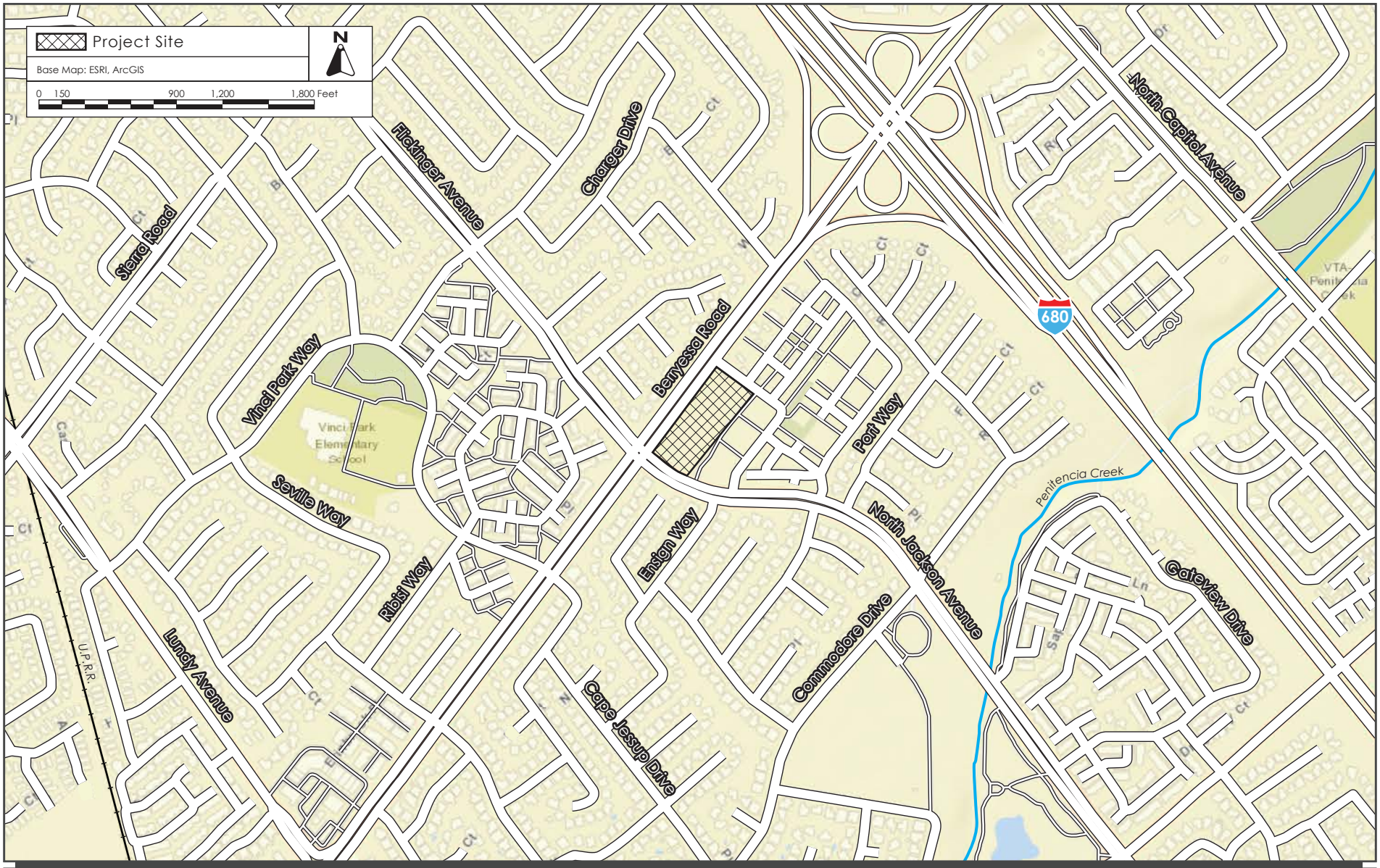
Urban-Suburban, Fee Zone C (small vacant sites under 10 acres)

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Rezoning Permit
Building Permit
Minor Improvement Permit
Grading and Drainage Permit
Site Development Permit



REGIONAL MAP | FIGURE 3.1-1



VICINITY MAP

FIGURE 3.1-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.4-3

SECTION 3.0 PROJECT DESCRIPTION

3.1 EXISTING SITE

The 2.76-acre (120,358 square foot) project site consists of three undeveloped parcels (APNs: 254-80-021, 022, 023) at the intersection of Berryessa Road and Jackson Avenue in the City of San José. The project site is designated Neighborhood/Community Commercial in the General Plan and zoned Planned Development [A(PD)]. As proposed, the site would be rezoned to CP Commercial Pedestrian as part of the project.

The project site is currently undeveloped, covered by ruderal vegetation, and is surrounded by an existing chain-link fence. There are mature street trees located along to two primary street frontages. The site is bounded by Berryessa Road to the north, Pepper Road to the east, the Cherry Blossom residential area to the south, and Jackson Avenue to the west. Access to the project site is currently provided by driveways located on Jackson Avenue, Berryessa Road, and Pepper Road. Existing sidewalks run around the perimeter of the site on Jackson Avenue, Berryessa Road, and Pepper Road.

3.2 SITE DESIGN

The project proposes construction of two commercial buildings on the northwest portion of the site (fronting Berryessa Road) and a surface parking lot on the southeast half of the site covering the remainder of the property. Building A, adjacent to Jackson Avenue, would be two-stories with approximately 26,700 square feet of floor area. Building B would be one-story with 18,300 square feet of floor area for a total of 47,000 square feet of floor area. In addition, Building A would have an outdoor covered patio on the second floor.

Primary access to the project's 200 space parking lot would be from a central driveway on Berryessa Road with alternative access provided by driveways on Pepper Road and Jackson Avenue. The project proposes to remove four trees to allow for the relocation of the driveway on Berryessa Road. In addition, the project would have 18 bicycle parking spaces (14 short-term and four long-term). The layout of the proposed project is shown on Figure 3.2-1.

Construction of the project would occur over a 13-month period.

3.2.1 Landscaping

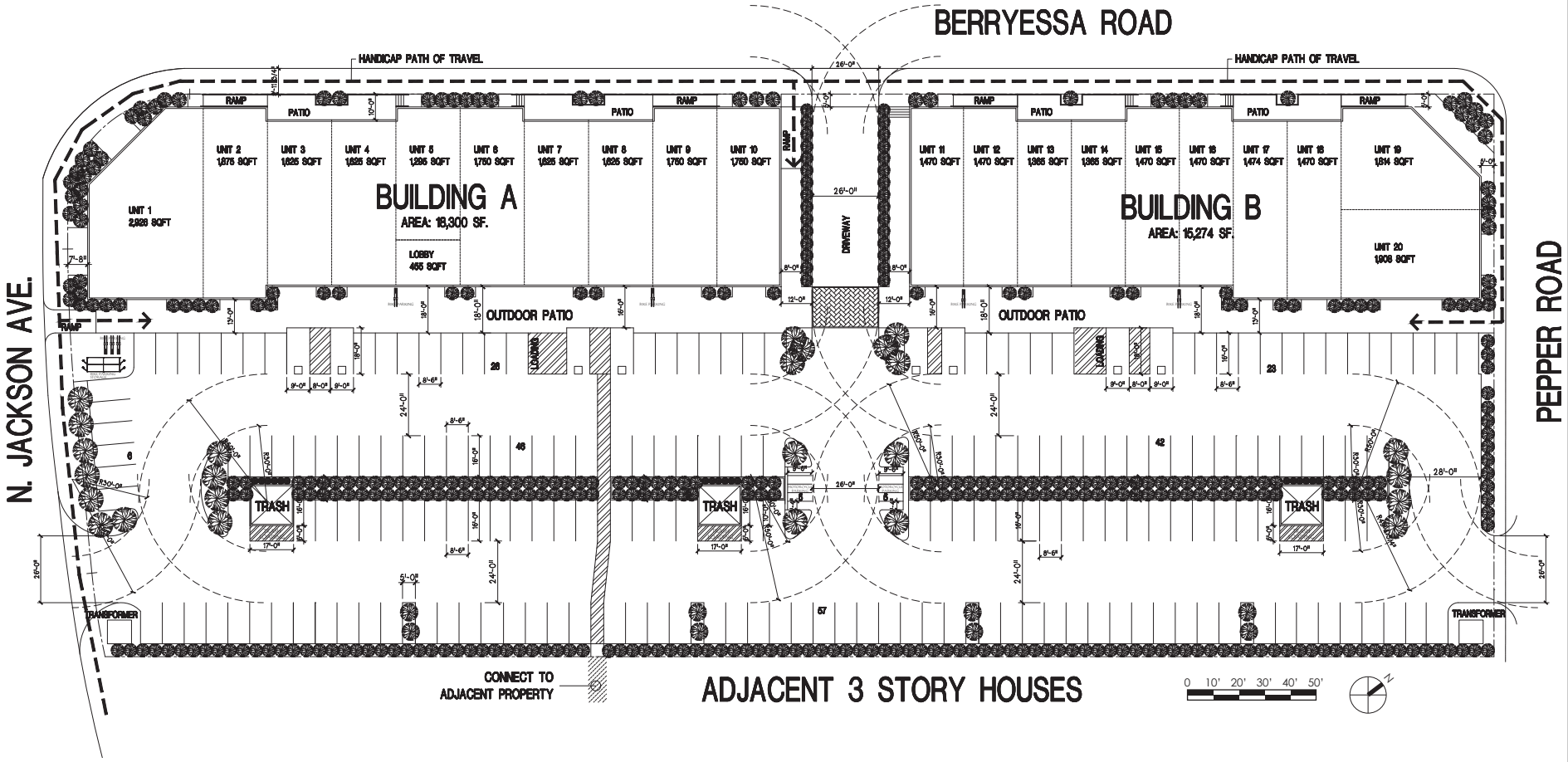
The proposed landscaping for the project would consist of trees, shrubs, and groundcover surrounding the buildings and in the median areas of the parking area. The project would require the removal of four street trees. The remaining street trees would be retained. The project would incorporate bioretention basins and flow through planters to capture and process stormwater on-site.

3.2.2 TDM Plan

The proposed project would include a Trip Demand Management (TDM) plan to reduce trip generation of the commercial development. The TDM plan would include measures such as:

- Car share vehicles for commercial tenants

- Subsidized transit passes for commercial tenants
- Bike share membership for commercial tenants
- End-of-trip bicycle facilities, such as secure parking for bikes, for commercial tenants



Source: LPMD Architects, October 30, 2018.

SITE PLAN

FIGURE 3.2-1

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

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

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

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Impact Discussion** – This subsection 1) includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts and 2) discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered to correspond to the checklist question being answered. For example, Impact BIO-1 answers the first checklist question in the Biological Resources section. Mitigation measures are also numbered to correspond to the impact they address. For example, MM BIO-1.3 refers to the third mitigation measure for the first impact in the Biological Resources section.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[1]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

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.[2]

In Santa Clara County, the one state-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City 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,

[1] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed March 10,2022. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

[2] California Department of Transportation. "Scenic Highways." Accessed March 10, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

Envision San José 2040 General Plan

The 2040 General Plan identifies "gateways", freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The segment of Bird Avenue over I-280 adjacent to the Downtown area is designated as a gateway for scenic purposes. The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

General Plan Policies - Aesthetics	
Attractive City	
CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
CD-1.2	Install and maintain attractive, durable, and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities.
CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings.
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-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

General Plan Policies - Aesthetics	
CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high-tension electrical transmission lines are exempt from this policy.
CD-1.29	Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate though sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter.

4.1.1.2 *Existing Conditions*

The project site is a vacant, unpaved lot covered with weeds and ruderal grasses. The area surrounding the project site is an urban area with single and multi-family residential structures with varying architectural designs. Surrounding buildings are one to three stories tall. Pictures of the site can be found in Photo Set of Site below.

Immediately south and east of the project is a three-story, multi-family development consisting of multiple buildings separated by open alley style roads. The buildings feature hipped and gabled rooftops and multicolored stucco facades. Some units feature balconies that overlook the project site. Adjacent to the wall separating the project site from the multi-family development is a park area with open space for residents.

On the west side of the project site, across Jackson Street, there is a single-family neighborhood with houses ranging in size and design. Many of these structures have hipped tile rooftops, stucco facades, and typical residential landscaping (lawns, shrubs, and street trees). Views of these structures from the project site consist exclusively of rooftops and second stories because visibility is restricted by a wall on Jackson Street.

Views north of the project site, across Berryessa Road, are also obstructed by a sound wall, which separates the residential area to the north from Berryessa Road. The houses are one and two stories tall with typical residential landscaping. Pictures of the surrounding area can be found in Photo Set of Surrounding Area below.

Scenic Views

Based on the City's General Plan, views of the hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area.[3] The project site and surrounding areas are relatively flat, however, partial views of the Diablo Range to the east are available from the project site. No natural scenic resources, such as rock outcroppings, are present on-site or in the project area.

[3] City of San José. Envision General Plan 2040. November 1, 2011.

View of project site looking south.

View of project site looking south.

View of adjacent uses looking south.

View of waste on-site.

PHOTO SET OF PROJECT SITE

View of Berryessa Road looking east.

View of Berryessa Road looking west.

View of Berryessa Road and Jackson Avenue intersection looking west.

View of Pepper Road looking southwest.

PHOTO SET OF SURROUNDING AREA

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:				
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? [4] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Impact AES-1: Would the project have a substantial adverse effect on a scenic vista?

As stated above, the foothills of the Diablo Range are visible from the project site and some areas in the vicinity of the project site. The project would construct a two-story commercial building on the vacant site which could create an obstruction to existing views of City's designated scenic vistas from certain locations surrounding the project site. The project would be approximately 48 feet tall and would construct the commercial building on the north side of the project site. This building would be shorter than the three-story multi-family development to the east and south of the project site and would be taller than the surrounding single-family residences.

Based on the size and placement of the proposed building, views of the Diablo Range foothills would be somewhat obscured similar to the effect of the existing multi-family housing. Views would, however, still be available from the surrounding roadways and the project would not significantly impact views of the Diablo Range foothills.

Therefore, the project would have a less than significant impact on views of scenic vistas as designated by the City of San José. **(Less than Significant Impact)**

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

Impact AES-2:	Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

The project site does not feature scenic resources, such as trees, rock outcroppings, or historic buildings within a scenic highway. Therefore, the project would not impact these resources. **(No Impact)**

Impact AES-3:	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 located at the corner of Berryessa Road and Jackson Street. The project site is currently vacant; therefore, any new construction on this site would be a substantial change and would be visible from the roadways and surrounding properties. The surrounding area is primarily residential subdivisions in varying architectural styles. Most of the residences do not face onto the surrounding roadways. The proposed commercial building would have multi-colored stucco and a modern façade with a large amount of street facing windows and street side landscaping. The building would not significantly alter the existing visual quality or the quality of public views of the site.

The General Plan FEIR concluded that while new development and redevelopment under the General Plan would alter the appearance of the City, implementation of adopted policies and existing regulations would avoid substantial degradation of the visual character or quality of the City.[5] As a result, the proposed project would have a less than significant impact on the visual character of the City. **(Less than Significant Impact)**

Impact AES-4:	Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Sources of light and glare include external building lights, streetlights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows. The building would be lit internally and would also include outdoor security lighting and parking lot lights. The proposed project would go through a design review process, prior to issuance of planning and building permits, and would be reviewed for consistency with the City's Design Guidelines, including guidelines on building lighting and materials. The General Plan FEIR concluded that new development and redevelopment allowed under the General Plan would result in new sources of nighttime light and daytime glare; however, implementation of the General Plan policies and existing regulations and adopted plans would avoid substantial light and glare impacts. **(Less than Significant Impact)**

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

4.2 AGRICULTURE AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[6]

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.[7]

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.[8] 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.[9]

[6] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 8, 2022. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[7] California Department of Conservation. "Williamson Act." Accessed April 8, 2022. http://www.conservation.ca.gov/dlrp/lca.
[8] 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)).
[9] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 8, 2022. http://frap.fire.ca.gov/.

4.2.1.2 *Existing Conditions*

The project site is designated as Urban and Built-Up Land in the California Department of Conservation Important Farmland Finder Service[10] and is not under a Williamson Act contract. The project site is not zoned for agricultural, forest or timberland.

4.2.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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?	☐	☐	☐	☒
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
3) 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))?	☐	☐	☐	☒
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5) 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?	☐	☐	☐	☒

Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

[10] California Department of Conservation. California Important Farmland Finder. Accessed April 8, 2022. https://maps.conservation.ca.gov/DLRP/CIFF/.

Impact AG-1:	**Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

The project site is not designated as an area of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The project would not convert farmland resources to non-agriculture uses therefore the project would have no impact on these resources. **(No Impact)**

Impact AG-2:	**Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?**

The project site is not zoned for agricultural uses or held under a Williamson Act contract. Therefore, the project would not conflict with these designations. **(No Impact)**

Impact AG-3:	**Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?**

The project site is not zoned for forest land, timberland, or timberland zoned Timberland Production. The project would not cause a rezoning of areas zoned for forest land, timberland, or timberland zoned Timberland Production and would not impact these zoning designations. **(No Impact)**

Impact AG-4:	**Would the project result in a loss of forest land or conversion of forest land to non-forest use?**

The project site is in an urban area and is not located in or near forest land uses. The project would not convert forest land to non-forest use and would not impact forest land resources. **(No Impact)**

Impact AG-5:	**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 not located on or near Farmland or forest land uses. Therefore, the project would not result in conversion of Farmland or forest land to non-agricultural or non-forest uses. **(No Impact)**

4.3 AIR QUALITY

The following discussion is based on an Air Quality & Greenhouse Gas Emissions Assessment prepared for the project by Illingworth and Rodkin, Inc. on January 27, 2021. A copy of this report is attached 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, 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 April 8, 2022. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and 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.

City of San José

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality and are applicable to the project and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and transit access improvements; parking strategies that reduce automobile travel through parking supply and pricing management; and requirements for Transportation Demand Management programs for large employers.

General Plan Policies - Air Quality	
Air Pollutant Emission Reduction Policies	
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-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
Toxic Air Contaminants Policies	
MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a

General Plan Policies - Air Quality	
	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-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Objectionable Odor Policies	
MS-12.2	Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separate distance will be determined based upon the type, size and operations of the facility.
Construction Air Emission Minimization Policies	
MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

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.

The project site is vacant and does not currently contribute pollutants or emissions affecting local air quality.

4.3.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
2) 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?	☐	☐	☒	☐
3) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
4) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	☒	☐

Note: Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the determinations.

Significance Thresholds

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

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/year)**
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-hour average) or 20.0 ppm (1-hour 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 1000-foot zone of influence)**	

Excess Cancer Risk	>10 per one million	>100 per one million
Hazard Index	>1.0	>10.0
Incremental annual $PM_{2.5}$	>0.3 µg/m^3	>0.8 µg/ m^3
Greenhouse Gas Emissions		
Land Use Projects – direct and indirect emissions	Compliance with a Qualified GHG Reduction Strategy OR 1,100 metric tons annually or 4.6 metric tons per capita *(660 metric tons annually or 2.8 metric tons per capita for 2030)**	
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. GHG = greenhouse gases. *BAAQMD does not have a recommended post-2020 GHG threshold.		

Impact AIR-1: Would the project conflict with or obstruct implementation of the applicable air quality plan?

The 2017 Clean Air Plan, adopted by BAAQMD in April 2017, includes control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. Plans must show consistency with the control measures listed within the Clean Air Plan. At the project-level, there are no consistency measures or thresholds. The proposed project would not conflict with the latest Clean Air planning efforts since project would have emissions below the BAAQMD thresholds, the project would be considered urban infill, and the project would be located near transit with regional connections.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Trip Reduction Programs	Encourage trip reduction policies and programs in local plans, e.g., general and specific plans. Encourage local governments to require mitigation of vehicle travel as part of new development approval, to develop innovative ways to encourage rideshare, transit, cycling, and walking for work trips.	The proposed development would be located in proximity to VTA light rail. In addition, the project would include bicycle parking consistent with City standards. The project is consistent with this measure.
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would be required to include bicycle parking consistent with City standards. The project area is equipped with pedestrian facilities including sidewalks and crosswalks. The project is consistent with this measure.

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Land Use Strategies	Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices.	The project would be located in proximity to multiple transit services; therefore, the project is consistent with this measure (refer to *Section 4.17 Transportation*).
Building Measures		
Green Buildings	Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would comply with Building Energy Efficiency Standards (Title 24), the City's Green Building Ordinance, and the most recent CALGreen requirements. In addition, the project would be designed to achieve LEED Silver certification. The project is consistent with this measure.
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/ roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements which would increase building efficiency over standard construction. Additionally, the project would include landscaping and trees located throughout the parking lot to reduce the heat island effect created by open asphalt. Therefore, the project is consistent with this control measure.
Natural and Working Lands Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review.	Any trees removed would be required to be replaced in accordance with the City's tree replacement policy. Therefore, the project is consistent with this control measure. Refer to *Section 4.4 Biological Resources*.
Waste Management Measures		
Recycling and Waste Reduction	Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials	The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier

Table 4.3-3: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
	in commercial and public construction projects.	community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure.

Construction

Construction of the proposed project is estimated to take approximately 13 months, or 269 construction workdays. Construction was estimated to be complete by January 2022, with the first year of operation assumed to be 2022.[14] Average daily emissions were computed by dividing the total construction emissions by the number of construction days, and are shown in Table 4.3-4.

Table 4.3-4: Construction Period Emissions				
Scenario	**ROG**	**NOx**	**PM10 Exhaust**	**PM2.5 Exhaust**
Total construction emissions (tons)	0.8 tons	2.3 tons	0.12 tons	0.11 tons
Average daily emissions (pounds)	5.8 pounds/day	17.1 pounds/day	0.9 pounds/day	0.8 pounds/day
BAAQMD Thresholds (pounds per day)	54 pounds/day	54 pounds/day	82 pounds/day	54 pounds/day
Exceed Threshold?	No	No	No	No
Source: Illingworth and Rodkin, Berryessa Plaza Air Quality & Greenhouse Gas Emissions Assessment, January 27, 2021				

The proposed project would not result in exceedance of the established thresholds for any of the criteria pollutants; therefore, the proposed project would not significantly increase criteria pollutants and would not conflict with or obstruct implementation of the Bay Area 2017 CAP.

[14] Although the air quality analysis prepared by Illingworth and Rodkin assumed construction of the project by 2022, this information is still correct because future advancements in engine efficiency and emissions reduction would result in improvements in emissions and the values provided would be a conservative estimate of emissions for the proposed project.

Operational

Operational criteria pollutants from the project would be generated primarily from autos driven by future residents. CalEEMod was used to estimate the emissions from operation of the project. Vehicle trip generation rates, energy usage, and other default model assumptions for solid waste generation and water usage/wastewater disposal were input into CalEEMod (refer to Appendix A of this document). Table 4.3-5 below shows an estimate of emissions from operation of the proposed project using CalEEMod.

Table 4.3-5: Operational Emissions

Scenario	ROG	NO_x	PM_{10}	$PM_{2.5}$
2022 Project Operational Emissions (tons/year)	0.73	0.69	0.79	0.22
2022 Existing Site Operational Emissions (Tons/year)	0.00	0.00	0.00	0.00
Net Annual Emissions (tons/year)	0.73	0.69	0.79	0.22
BAAQMD Thresholds (tons /year)	10	10	15	10
Exceed Threshold?	No	No	No	No
2022 Project Operational Emissions (pounds/day)	4.0	3.8	4.3	1.2
BAAQMD Thresholds (pounds/day)	54	54	82	54
Exceed Threshold?	No	No	No	No

Source: Illingworth and Rodkin, Berryessa Plaza Air Quality & Greenhouse Gas Emissions Assessment, January 27, 2021

The proposed project would not exceed the BAAQMD air quality thresholds during operations; therefore, the proposed project would have a less than significant impact from the emissions of criteria pollutants and would not conflict with or obstruct implementation of the Bay Area 2017 CAP.

The proposed project has a less than significant impact from criteria pollutants during construction and operations and would not conflict or obstruct the implementation of the Bay Area 2017 CAP. Therefore, the proposed project would have a less than significant impact on the implementation of the applicable air quality plan for the area. **(Less than Significant Impact)**

Impact AIR-2: 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?

As stated in 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 in AIR-1 operational criteria pollutant emissions associated with the proposed project would not result in emissions above established BAAQMD thresholds (see Table 4.3-4) and the project is part of the planned growth in the City of San José. The proposed project, by itself, would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. Therefore, the proposed modified project would result in a less than significant impact. **(Less than Significant Impact)**

Impact AIR-3:	**Would the project expose sensitive receptors to substantial pollutant concentrations?**

Dust Generation

During construction the proposed project would generate fugitive dust and particulate matter during site preparation and grading in the form of $PM_{2.5}$ and PM_{10}. 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 could deposit mud on local streets, which could be an additional source of airborne dust after it dries. The project would implement the following Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice daily or as often as needed to control dust emissions. All haul trucks transporting soil, sand, or other loose material off-site shall be covered or maintain at least two feet of freeboard.
- All visible mud or dirt track-out onto adjacent public roads shall be removed 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.).
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Building pads shall be laid 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.
- Idling times shall be minimized either by shutting equipment off 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 [CCR]). Clear signage shall be provided 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.

Even with this standard permit condition, the proposed project could still result in some dust or particulate matter disturbance on-site.

Impact AIR-1 Construction of the proposed project would generate fugitive dust and particulate matter during site preparation and grading.

Mitigation Measure

To further reduce dust, the proposed project shall implement the following mitigation measure:

MM AIR-1.1 Prior to the issuance of any grading, demolition, or building permits, the project applicant shall prepare a construction operations plan project including the following dust control measures which would be implemented during all applicable phases of construction:

- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.
- Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a six to 12-inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.

This plan will be reviewed by the Director of Planning, Building and Code Enforcement or Director's designee prior to issuance of any grading, demolition or buildings permits.

With implementation of the Standard Permit Conditions and MM AIR-1.1, construction dust and other particulate matter would have a less than significant construction air quality impact.

Project Construction – Community Risk Impacts

Project construction activity would generate dust and equipment exhaust on a temporary basis that could affect nearby sensitive receptors. A construction community health risk assessment was prepared to address project construction impacts on the surrounding off-site sensitive receptors within 1,000 feet of the project site from construction emissions of DPM and $PM_{2.5}$.

The CalEEMod model was used which provides total annual PM_{10} exhaust emissions (DPM) for the off-road construction equipment and on-road vehicles. Additionally, the U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and $PM_{2.5}$ concentrations at existing sensitive receptors in the vicinity of the project construction area. The U.S. EPA AERMOD dispersion model, assumptions, and results are described further in Appendix A of this document.

The maximum-modeled annual DPM and $PM_{2.5}$ concentrations were identified on the second floor of a multi-family residence adjacent to the eastern boundary of the project site (see Figure 4.3-1). Sensitive receptors are designated in green and the maximum exposed individual (MEI) from construction is designated in red. The results of the analysis are shown in Table 4.3-6 below.

Source: Illingworth & Rodkin, Inc., January 27, 2021.

MEI LOCATION

FIGURE 4.3-1

Table 4.3-6: Construction Risk Impacts at the Off-Site Residential MEI				
Source		**Cancer Risk (per million)**	**Annual PM 2.5 (ug/m3)**	**Hazard Index**
Project Construction	Unmitigated	**82.7 (infant)**	**0.51**	0.09
BAAQMD Single-Source Threshold		*>10.0*	*>0.3*	*>1.0*
Exceed Threshold	Unmitigated	**Yes**	**Yes**	No
Source: Illingworth and Rodkin, Berryessa Plaza Air Quality & Greenhouse Gas Emissions Assessment, January 27, 2021				

Impact AIR-2: Construction activities associated with the proposed project would result in nearby sensitive receptors being exposed to toxic air contaminant emissions for cancer risk of 82.7 cases per one million persons and annual $PM_{2.5}$ concentration of 0.51, which are in excess of the BAAQMD thresholds for cancer risk, 10 case per one million persons, and annual $PM_{2.5}$ concentrations, 0.3.

Mitigation Measure

In addition to the Standard Permit Conditions listed above and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measures would be implemented during all demolition and construction activities to reduce cancer risk below 10cases per one million persons and annual $PM_{2.5}$ concentrations to below 0.3.

MM AIR-2.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or Director's designee that includes specifications of the equipment to be used during construction to achieve a fleet-wide average 88 percent reduction in DPM exhaust emissions or greater. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- All diesel-powered off-road equipment (larger than 25 horsepower) operating on-site for more than two days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter.
- Where Tier 4 equipment is not available, equipment larger than 25 horsepower used at the site for more than two continuous days shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieves an 88 percent reduction in particulate matter exhaust.

- Provide line power to the site during the early phases of construction to minimize the use of diesel-powered stationary equipment, such as generators.
- Cranes shall be powered by electricity or alternative fuel.

With implementation of the Standard Permit Conditions for dust control and Mitigation Measure AIR-2.1, the infant residential cancer risk would be reduced to 3.2 cases per one million which would be below the BAAQMD significance threshold of 10 per one million cases for cancer risk. The annual $PM_{2.5}$ concentration would be reduced to 0.03, which is also below the significance threshold. HI would not exceed BAAQMD significance threshold. Implementation of Mitigation Measure AIR-2.1 and identified Standard Permit Conditions would reduce the off-site community risk impact to less than significant.

Project Operations – Community Risk Impacts

Operation of the project would not be a source of TACs or localized air pollutant emissions, as the project would not generate substantial truck traffic or include stationary sources of emissions, such as generators powered by diesel engines. Emissions from automobile traffic generated by the project would be spread out over a broad geographical area and not localized, therefore, the proposed project would not expose sensitive receptors to substantial pollutant concentrations during operations.

Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the state Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

The proposed project would result in a less than significant project-level and cumulative operational and construction criteria pollutant impact. As a result, the project would result in a less than significant health impact to sensitive receptors.

Cumulative Community Health Risks

In addition to project impacts, community health risk assessments evaluate cumulative impacts of the project and all substantial sources of TACs located within 1,000 feet of the project site. As shown in Table 4.3-7**Error! Reference source not found.** below, the combined cancer risk, $PM_{2.5}$ concentration, and hazard index are all below their BAAQMD cumulative thresholds.

Table 4.3-7: Construction Risk Impacts at the Off-Site Residential MEI - Cumulative				
Source		**Cancer Risk (per million)**	**Annual PM 2.5 (ug/m3)**	**Hazard Index**
Project Construction Impacts				
Project Construction	Mitigated	3.2 (infant)	0.03	<0.01
BAAQMD Single-Source Threshold		*>10.0*	*>0.3*	*>1.0*
Exceed Threshold	Mitigated	No	No	No
Cumulative Impacts				
Berryessa Road		4.6	0.19	<0.01
N. Jackson Avenue		2.0	0.08	<0.01
Flickinger Avenue		0.9	0.03	<0.01
Cumulative Total - Mitigated		10.7	0.33	<0.04
BAAQMD Cumulative Source Threshold		*>100*	*>0.8*	*>10.0*
Exceed Threshold	Mitigated	No	No	No
Source: Illingworth and Rodkin, Berryessa Plaza Air Quality & Greenhouse Gas Emissions Assessment, January 27, 2021				

The proposed project would have a less than significant cumulative health risk impact on nearby sensitive receptors.

The proposed project would implement Standard Permit Conditions and mitigation measures MM AIR-1.1 and MM-AIR 2.1 to reduce cancer risk and particulate matter associated with construction of the proposed project. Therefore, impacts on sensitive receptors near the project site from construction and operation of the project would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

Impact AIR-4: Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors. However, they would be localized and are not likely to adversely affect people off-site by resulting in confirmed odor complaints. The project would not include any sources of significant odors, such as diesel emissions, solid waste, or chemical fumes, that would adversely affect a substantial number of people; therefore, the proposed project would have a less than significant impact. **(Less than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

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.[15] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

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

[15] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." April 8, 2022. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Fish and Game Code Section 1602

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

Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (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.

Street Tree Removal and Replacement Ordinance

The director shall issue a permit to remove a street tree only if at least one of the following criteria is met:

1. The street tree is in a hazardous condition or imminently hazardous condition.
2. The type, species, or location of the street tree is in conflict with a community forest master plan adopted by the city council or the street tree policy, guidelines, and best practices published by the director.
3. The street tree interferes with high tension electrical lines and the interference cannot be corrected by topping the street tree.
4. The street tree has caused extensive concrete damage and the concrete has been replaced more than once in the preceding ten years.
5. The street tree has done extensive sewer system damage that cannot be resolved by any other reasonable means.
6. The street tree is in conflict with an approved development permit for the adjacent property or right-of-way pursuant to Title 20 of this Municipal Code

Tree replacement is required at all suitable street tree planting locations adjacent to the property where the tree was removed. The street tree removal and replacement permit identifies the replacement specie(s). Requests from the property owner for an alternative tree species must be submitted to the Arborist's Office in writing. A 15-gallon size or larger tree is required at each planting location. A removal and replacement permit is valid for sixty days. If the tree cannot be removed and replaced within the sixty-day window one sixty-day extension is available.

Envision San José 2040 General Plan

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

General Plan Policies – Biological Resources	
Special Status Plants and Animals	
ER-4.1	Preserve and restore 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-4.3	Prohibit planting of invasive non-native plant species in natural habitats that support special-status species.
ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
Migratory Birds	
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 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.
Urban Natural Interface	
ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
ER-6.7	Include barriers to animal movement within new development and, when possible, within existing development, to prevent movement of animals (e.g., pets and wildlife) between developed areas and natural habitat areas where such barriers will help to protect sensitive species.
Community Forest	
MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
MS-21.7	Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets.

General Plan Policies – Biological Resources	
MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.
MS-21.9	Where urban development occurs adjacent to natural plant communities (e.g., oak woodland, riparian forest), landscape plantings shall incorporate tree species native to the area and propagated from local sources (generally from within 5-10 miles and preferably from within the same watershed).
General Provision of Infrastructure	
IN-1.11	Locate and design utilities to avoid or minimize impacts to environmentally sensitive areas and habitats.
Community Design Policies – Attractive City	
CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse affect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

4.4.1.2 *Existing Conditions*

The project site is a vacant lot in the City of San José. The site is located in the Habitat Plan permit area and is classified Urban Development land use type (One Dwelling Unit/2.5 or fewer acres). The vegetation on site consists primarily of ruderal ground cover and street trees.[16] There are no sensitive habitats or wetlands located on or near the project site. Habitats in developed areas, such as the project site, are low in species diversity and include predominately urban adapted birds and animals. Most special status species occurring in the Bay Area use habitats that are not present on the project site, such as salt marsh, freshwater march, and serpentine grassland habitats. Native vegetation does not exist on the project site and native wildlife species have been supplanted by species that are more compatible with an urbanized area.[17] There is still potential for nesting birds to be located in trees on or adjacent to the project site.

[16] Santa Clara Valley Habitat Agency. Final Santa Clara Valley Habitat Plan. August 2012.
[17] Santa Clara Valley Habitat Agency. Habitat Agency Geobrowser. Accessed April 8, 2022. http://www.hcpmaps.com/habitat/.

Trees near the project site consist of Callery Pear (*Pyrus calleryana*) or London Plane (*Platanus acerifolia*) planted along the sidewalks of Berryessa Road and Jackson Street. David J. Powers and Associates conducted a tree survey to inventory the size and species of trees near the project site on March 9, 2020. Results of this tree survey are shown in Table 4.4-1 below with trees to be removed highlighted in grey. The location of these trees is shown on Figure 4.4-1.

Table 4.4-1: Tree Inventory

Tree Number	Common Name	Scientific Name	Diameter at Breast Height (DBH)[1]	Circumference (Inches)
1	Callery Pear	*Pyrus calleryana*	8.3	26
2	Callery Pear	*Pyrus calleryana*	5.7	18
3	Callery Pear	*Pyrus calleryana*	8.3	26
4	London Plane	*Platanus acerifolia*	10.2	32
5	London Plane	*Platanus acerifolia*	8.3	26
6	London Plane	*Platanus acerifolia*	8.3	26
7	London Plane	*Platanus acerifolia*	9.2	29
8	London Plane	*Platanus acerifolia*	7.0	22
9	London Plane	*Platanus acerifolia*	7.6	24
10	London Plane	*Platanus acerifolia*	5.1	16
11	London Plane	*Platanus acerifolia*	5.7	18
12	London Plane	*Platanus acerifolia*	7.0	22
13	London Plane	*Platanus acerifolia*	8.9	28
14	London Plane	*Platanus acerifolia*	8.0	25
15	London Plane	*Platanus acerifolia*	8.3	26
16	London Plane	*Platanus acerifolia*	8.6	27

[1] Measured in inches

The nearest riparian area is Penitencia Creek, located approximately 0.3 miles south of the site, which is a tributary of Coyote Creek, located approximately 1.1 miles west of the site. Wildlife corridors do not exist in the direct vicinity of the project.

TREE LOCATIONS | FIGURE 4.4-1

4.4.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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)?	☐	☒	☐	☐
2) 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?	☐	☐	☐	☒
3) 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?	☐	☐	☐	☒
4) 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?	☐	☐	☐	☒
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

Impact BIO-1: 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?

The project site is located in a fully urbanized area and is currently a vacant lot with ground cover consisting of ruderal vegetation. Because the project area is developed and has no natural habitats remaining, no habitats exist on-site that would support local endangered, threatened, or special status wildlife species. Construction of the project would not modify habitat or directly affect candidate, sensitive, or special status species. Therefore, the project would have no impact on these species.

Nesting Raptors and Migratory Birds

There are 16 street trees along the project boundaries as outlined in Table 4.4-1. The trees adjacent to the site are part of the City's urban forest.[18] Within the City of San José, the urban forest is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. While the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or the best habitat commonly or locally available within urban areas.

The project proposes to remove four trees to allow for the relocation of the driveway on Berryessa Road. During construction the project's tree removal and other construction activities could disturb birds residing in trees near the project site. This could affect nesting raptors, which are more sensitive to disruption and nest abandonment. Therefore, the project could result in a significant impact on nesting birds during construction.

Impact BIO-1: Construction activities could disrupt adult nesting raptors, or other birds, resulting in abandonment of nests and loss of fertile eggs.

Mitigation Measure: The following mitigation measure would be implemented during construction activities to avoid abandonment of raptor and other protected migratory bird nests:

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors, in the San Francisco Bay Area extends from February 1st through August 31st, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/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), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that

[18] Based on the General Plan, the urban forest consists primarily of planted landscape trees along residential and commercial streets and in landscaped areas at residences, local parks, in parking lots, and the perimeter of commercial and industrial development.

raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree or vegetation removal, or approval of any grading or demolition permits, the applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

The proposed project would have no impact on native vegetation or habitats on the project site because the site is occupied by ruderal vegetation. The proposed project would impact nesting birds in the area and would implement MM BIO-1.1 to reduce construction impacts to nesting birds to a less than significant level. Therefore, the proposed project would result in a less than significant impact. **(Less than Significant Impact with Mitigation Incorporated)**

Impact BIO-2:	**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 nearest riparian area is Penitencia creek, located approximately 0.3 miles to the south. The project site is located in an urban area which does not feature natural communities identified on local or regional plans. Construction of the proposed project would not impact riparian habitat or other sensitive natural communities. **(No Impact)**

Impact BIO-3:	**Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?**

The project site does not contain state or federally protected wetland areas. Therefore, the project would have no impact on wetland resources on or near the project site. **(No Impact)**

Impact BIO-4:	**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 located in an urban area that does not contain natural habitat or wildlife corridors. The project would not interfere with the movement of species through wildlife corridors or impede the use of native wildlife nursery sites. Therefore, the project would have no impact on wildlife corridors or the movement of species through wildlife corridors. **(No Impact)**

Impact BIO-5:	Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The proposed project would remove four trees during construction of the project due to the relocation of the driveway on Berryessa Road. The project would file a permit for removal of the street trees and replace the trees in accordance with the tree replacement requirements outlined in the Tree Policy Manual & Recommended Best Practices prepared by the City. The project would comply with the City's tree ordinance for replacement ratios of the trees therefore, the project would not conflict with local policies or ordinances protecting tree resources.

Any tree removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies or guidelines, including:

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

In addition, the project would be required to implement the following Standard Permit Conditions.

Standard Permit Conditions:

The project shall be required to implement the following measures:

- **Replacement.** Replace all trees to be removed at the following ratios:

Table 4.4-1: Tree Replacement Ratios

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

[1] As measured 4.5 feet above ground level

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

[3] Ordinance-sized trees

Notes: Trees greater than or equal to 38 inches in 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 Tree Removal Permit is required for removal of trees of any size.

One 24-inch box tree = two 15-gallon trees

Four trees would be removed. All four trees would be replaced at a 2:1 ratio with 15-gallon containers for a total of eight replacement trees. The species of trees to be planted would be

determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

- Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.
- 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.

In accordance with City policy, tree replacement would be implemented as shown in Table 4.4-1. The proposed project would be required to meet the tree replacement requirements as noted above. The Downtown Strategy 2040 FEIR concluded that compliance with local laws, policies and guidelines would reduce impacts to the urban forest to a less than significant level. **(Less Than Significant Impact)**

Impact BIO-6:	**Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

The project site is designated as Urban-Suburban land cover in the Santa Clara Valley Habitat Plan and is located in Fee Zone C (small vacant sites under 10 acres).[19]. Private development in the plan area is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 Urban Development or in Section 2.3.7 Rural Development;
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
    - The project is located in an area identified as "Rural Development Equal to or Greater than 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" or,
    - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or

[19] Santa Clara Valley Habitat Agency. Habitat Agency Geobrowser. Accessed April 8, 2022. http://www.hcpmaps.com/habitat/.

development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in Section 2.3.2 of the SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

- Santa Clara Valley Habitat Plan. 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 all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. **(Less than Significant Impact)**

4.5 CULTURAL RESOURCES

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.[20]

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

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

California Native American Historical, Cultural, and Sacred Sites Act

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.

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

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.

City of San José

Historic Preservation Ordinance

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

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

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and various land use and zoning incentives.

Envision San José 2040 General Plan

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

General Plan Policies - Cultural Resource	
Landmarks and Districts	
LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
LU-13.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Historic Structures of Lesser Significance	
LU-14.1	Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character as a means to maintain a connection between the various structures in the area.
LU-14.3	Design new development, alterations, and rehabilitation/remodels in conservation areas to be compatible with the character of the Conservation Area. In particular, projects should respect character defining elements of the area that give the area its identity. These defining characteristics could vary from area to area and could include density, scale, architectural consistency, architectural variety, landscape, etc.
Archaeology and Paleontology	
ER-9.2	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-10.1	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.

General Plan Policies - Cultural Resource	
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*

Prehistoric Subsurface Resources

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 project site is located approximately 0.3 miles north of Penitencia Creek and 1.1 miles east of Coyote Creek.

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe was established.

The pueblo was originally located near the old San José City Hall, approximately 2.75 miles west of the project site. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo site is located approximately 3.4 miles southwest of the project site.

Post-Mission Period to Mid-20th Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west. Settlement was primarily focused within what is currently the downtown area. The neighborhoods surrounding the project site were constructed generally between 1970 and 1985. Prior to that, the project area was either undeveloped or agricultural land.

The project site was previously excavated in 2011 and the soil was replaced with fill soil selected for the project site. This fill extends to four feet in depth at which point there is a low permeability

geomembrane layer to prevent contamination of soil.[21] Additionally, the project site is not located within a city designated area of archeological sensitivity.[22]

4.5.2 Impact Discussion

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

Impact CUL-1: Would the project a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?

According to the San José Historic Resources Inventory, the nearest historic structure is Berryessa Elementary School located at 1171 Capitol Avenue approximately 0.25 miles to the east. The project site is a vacant; therefore, no historical resources exist on or near the project site. Therefore, the project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(No Impact)**

Impact CUL-2: Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

The project site and the surrounding areas have been disturbed by recent development and hazardous materials remediation to a depth of approximately four feet. While the probability of uncovering archeological resources during development of the proposed project is low, there is a possibility for the construction activities to disturb undiscovered resources on the project site.

In accordance with General Plan policy ER-10.3, the proposed project would be required to implement the Standard Permit Condition listed below to reduce or avoid impacts to subsurface cultural resources.

[21] Krazan & Associates, Inc. Phase I Environmental Site Assessment. October 28, 2020.
[22] City of San José. GIS viewer. Accessed April 8, 2022.

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 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 shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Therefore, the project would not cause a substantial adverse change in the significance of an archeological resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

Impact CUL-3:	**Would the project disturb any human remains, including those interred outside of dedicated cemeteries?**

The project site was previously disturbed in 2011 during a project developing the surrounding parcels with multi-family residential units. Soil was excavated and replaced, and an impermeable layer was placed below the project site. Although the project site was previously disturbed, there is still a potential for the discovery and disturbance of human remains.

Consistent with General Plan policy ER-10.2, future development would be required to comply with the following conditions to ensure human remains would not be disturbed.

Standard Permit Conditions

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

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

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

With implementation of the Standard Permit Conditions, the proposed project would have a less than significant impact on human remains. **(Less Than Significant Impact)**

4.6 ENERGY

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

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

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.[23] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[24]

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.

[23] California Building Standards Commission. "California Building Standards Code." Accessed April 8, 2022. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[24] California Energy Commission (CEC). "2022 Building Energy Efficiency Standards." Accessed April 8, 2022. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[25]

Climate Smart San José

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

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

City of San José

Climate Smart San José

Approved by the City Council in February 2018, Climate Smart San José utilizes a people-focused approach, encouraging the entire San José community to join an ambitious campaign to reduce greenhouse gas emissions, save water and improve quality of life. The adoption of Climate Smart San José made San José one of the first U.S. cities to chart a path to achieving the greenhouse gas emissions reductions contained in the international Paris Agreement on climate change. Climate Smart San José focuses on three areas: energy, mobility, and water. Climate Smart San José encompasses nine overarching strategies:

- Transition to a renewable energy future
- Embrace our California climate
- Densify our city to accommodate our future neighbors
- Make homes efficient and affordable for families
- Create clean, personalized mobility choices
- Develop integrated, accessible public transport infrastructure
- Create local jobs in our city to reduce vehicle miles traveled
- Improve our commercial building stock
- Make commercial goods movement clean and efficient

[25] California Air Resources Board. "The Advanced Clean Cars Program." April 8, 2022. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program.

Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management and energy efficiency.

Municipal Code

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

Envision San José 2040 General Plan

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

General Plan Policies - Energy	
Green Building Policy Leadership	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
Energy Conservation and Renewable Energy Use	
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-2.6	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.
Water Conservation and Quality	
MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.

General Plan Policies - Energy	
Waste Diversion	
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Waste Reduction	
MS-6.5	Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
MS-6.8	Maximize reuse, recycling, and composting citywide.
Reduce Consumption and Increase Efficiency	
MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
MS-14.2	Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
MS-14.3	Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.
MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption.
Responsible Management of Water Supply	
MS-17.2	Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities.
Water Recycling	

General Plan Policies - Energy	
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
MS-19.10	Develop incentives to encourage the use of recycled water. Enact ordinances that ensure that new buildings in the vicinity of the SBWR pipeline are constructed in a manner suitable for connection to the recycled water system and that they use recycled water wherever appropriate.
Sustainable Parks and Recreation	
PR-6.4	Consistent with the Green Vision, complete San José's trail network and where feasible develop interconnected trails with bike lanes to facilitate bicycle commuting and recreational uses.
Vibrant, Attractive, and Complete Neighborhoods	
VN-1.1	Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks and retail services.
Neighborhood Serving Commercial	
LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections, and including secure and convenient bike storage.
Transportation	
TR-1.4[26]	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

[26] TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.

4.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,875 trillion British thermal units (Btu) in the year 2018, the most recent year for which this data was available.[27] 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 18 percent (1,440 trillion Btu) for residential uses, 19 percent (1,510 trillion Btu) for commercial uses, 23 percent (1,847 trillion Btu) for industrial uses, and 39 percent (3,078 trillion Btu) for transportation.[28] 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 (76 percent), followed by the residential sector consuming 24 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[29]

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

The project site does not currently generate electricity demand or consumption because the site is vacant.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[30] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[31]

The project site does not currently generate natural gas demand or consumption because the site is vacant.

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[27] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed April 8, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[28] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed April 8, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.
[29] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed April 8, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[30] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed April 8, 2022. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[31] California Energy Commission. "Natural Gas Consumption by County." Accessed April 8, 2022. http://ecdms.energy.ca.gov/gasbycounty.aspx.

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[32] 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.[33] 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. [34,35]

The project site does not currently generate fuel demand or consumption because the site is vacant and does not generate vehicle trips.

4.6.1.3 *Energy Use of the Project Site*

The project site is currently vacant. As such it does not generate traffic trips and does not use any energy.

4.6.2 Impact Discussion

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

[32] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed April 8, 2022. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

[33] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

[34] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed April 8, 2022. http://www.afdc.energy.gov/laws/eisa.

[35] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed April 8, 2022. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Impact EN-1:	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?

Energy Use During Construction

Construction activities would include shoring, grading, excavation, below slab utilities, foundation, and building interior/exterior. The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel would not be used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the City's Standard Permit Conditions detailed in *Section 4.1 Air Quality* of this document, would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. With implementation of the Standard Permit Conditions, energy would not be wasted or used inefficiently by construction equipment and waste from idling would be reduced.

Operational Energy Use

The proposed project would develop a vacant 2.76-acre site in the City of San José. Operation of the proposed project would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, and water heating. The estimated annual energy use of the proposed project is shown in Table 4.6-1, below.

The proposed project would use approximately 528,059 kWh of electricity and 111,390 kBtu of natural gas. Using the U.S. EPA fuel economy estimates (25.1 mpg), the project would result in the consumption of approximately 83,652 gallons of gasoline per year.

Table 4.6-1: Estimated Annual Energy Use of Proposed Development

Development	Electricity Use (kWh)	Natural Gas Use (kBtu)	Gasoline (gallons per year)
Strip mall	502,430	111,390	83,652[36]
Parking lot	25,629	0	
Total	**528,059**	**111,390**	

Source: *Illingworth & Rodkin, Inc. Berryessa Plaza Air Quality & Greenhouse Gas Assessment. January 27, 2021*

The proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. Additionally, the proposed project would be constructed in compliance with City of San José Council Policy 6-32. The project site is located approximately 0.6 miles from the Berryessa Light Rail Station. The nearest bus stops are located along Berryessa Road and Jackson Avenue, approximately

[36] 2,099,676 Vehicle Miles Traveled/ 25.1 miles per gallon = 83,652 gallons per year

300 feet from the site. The site's proximity to transit would incentivize the use of alternative methods of transportation to and from the site. Additionally, the proposed project would include 18 bicycle parking spaces exceeding the City's bicycle parking requirement of 14 parking spaces. Furthermore, the proposed project would comply with existing state energy standards. For these reasons, the project would not result in a potentially significant environmental impact due to inefficient consumption of energy during project operation. **(Less than Significant Impact)**

Impact EN-2:	**Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?**

Electricity on-site would be provided by SJCE. The project would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. As a result, the project would not conflict with or obstruct state or local plans for renewable energy or energy efficiency. **(Less than Significant Impact)**

4.7 GEOLOGY AND SOILS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

City of San José

City of San José Policies

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

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

General Plan Policies - Geology, Soils, and Seismic Hazards	
Emergency Management	
ES-4.9	Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.
Seismic Hazards	
EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
EC-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.

General Plan Policies - Geology, Soils, and Seismic Hazards	
EC-3.6	Restrict development in close proximity to water retention levees or dams unless it is demonstrated that such facilities will be stable and remain intact during and following an earthquake.
Geologic and Soil Hazards	
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 un-engineered 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-4.3	Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.
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 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 15 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*

Topography and Soils

There are no unique geological features on or adjacent to the project site and the topography of the project area is relatively flat. Existing soils to a depth of four feet on the project site are made up of fill soil added to the site as a part of remediation activities associated with previous projects in the

surrounding areas. The native soils in the area are the Urban land-El Palo Alto complex, 0 to 2 percent slopes series.[37]

Liquefaction

According to USGS Santa Clara County liquefaction map, the project site is not located in a seismic hazard zone that could suffer from liquefaction in the event of an earthquake.[38]

Seismicity and Seismic-Related Hazards

The project site is not located in a designated Alquist-Priolo Earthquake zone, Santa Clara County Fault Hazard Zone, or City of San José Potential Hazard Zone. Nearby active faults include the Hayward, Calaveras, and San Andreas faults.[39]

4.7.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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?	☐	☐	☐	☒
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
3) 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?	☐	☐	☐	☒

[37] Natural Resources Conservation Service. Web Soil Survey. Accessed April 8, 2022.
[38] USGS. Thomas L. Holzer, Thomas E. Noce, and Michael J. Bennett. Liquefaction probability for M7.8 San Andreas Fault earthquake scenario, Santa Clara County, CA.
[39] USGS. United States Quaternary Faults. Accessed April 8, 2022. https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
4) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
5) 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?	☐	☐	☐	☒
6) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?	☐	☐	☒	☐

Impact GEO-1: 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?

The project site is not located in a designated Alquist-Priolo Earthquake zone and would not be exposed to the adverse effects related to fault-rupture, however there are many faults in the area that could result in strong seismic shaking at the project site. The project site is flat and not located near steep topography and, therefore, would not be at risk of experiencing landslides related to seismic activity. The project site is not located in an area that would potentially be affected by seismic-related ground failure from liquefaction.

The project site would be subject to strong seismic ground shaking and seismic-related ground failure in the event of a large earthquake. 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:

- 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.

Implementation of the standard permit condition would minimize the risk of loss and injury caused by the project to a less than significant impact. **(Less than Significant Impact)**

Impact GEO-2:	**Would the project result in substantial soil erosion or the loss of topsoil?**

The project site is a vacant lot with ruderal ground cover overlying soil materials that could be exposed and eroded during construction. 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 General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. The City will 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

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

Implementation of the Standard Permit Condition would allow the project to comply with the NPDES Municipal Permit and the impacts of soil erosion and loss of topsoil would be less than significant. **(Less than Significant Impact)**

Impact GEO-3:	**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?**

The project site is not identified as an area that is susceptible to landslides, subsidence, liquefaction, or collapse. The site is also flat and is located in an area near creeks, rivers, or cliffs that could result in lateral spreading associated with a seismic event. Therefore, the project would not result in impacts increasing the instability of the geologic unit or soil on the project site. **(No Impact)**

Impact GEO-4:	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?

Natural soils underlying the project site are composed of the Urban Land-El Palo Alto complex with zero to two percent slopes.[40] Soils of this variety are composed of silty clay loam and have high plasticity and contain smectite based clays which have expansion potential.

The project site is located in an area of moderate expansion potential.[41] [42]By constructing the commercial development in accordance with standard engineering practices, the proposed project would not result in a significant impact as a result of the soils underlying the site. Additionally, the project would be subject to the following Standard Permit Condition.

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.

The proposed project would utilize proper site design measures and would conform with the associated policies and procedures governing the construction of structures on expansive soils. Therefore, the proposed project would have a less than significant impact on risks to life and property associated with expansive soils. **(Less than Significant Impact)**

Impact GEO-5:	Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

[40] Natural Resources Conservation Service. Web Soil Survey. Accessed March, 31, 2022. https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm.
[41] Natural Resources Conservation Service. Physical Soil Properties---Santa Clara Area, California, Western Part. Accessed March 31, 2022.
[42] UC Davis. Linear Extensibility and Shrink Swell Capability. Accessed March 31, 2022. https://casoilresource.lawr.ucdavis.edu/gmap/help/defn-linear-extensibility.html.

Impact GEO-6:	Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

The project site has been excavated for hazardous materials remediation during a previous project and the top four feet of soil on-site was replaced with fill material. Although the site has been previously disturbed, there is a potential for construction of the project to uncover previously unknown paleontological resources.

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.[43] As such, the following standard permit condition would be applied to the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition

- 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.

Implementation of the Standard Permit Condition would limit impacts to unidentified paleontological resources to a less than significant impact. **(Less than Significant Impact)**

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

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based on compliance with the 2030 Greenhouse Gas Reduction Strategy prepared By the City of San José. A copy of each of this report is attached in Appendix B 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 Jose Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

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.[44]

City of San José

City of San José Municipal Code

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

[44] 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.

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

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development under the proposed Downtown Strategy 2040 would be subject to this policy.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to greenhouse gas emissions and are applicable to the project. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to Sections 4.3 Air Quality, 4.6 Energy, and 4.16 Transportation for these policies.

General Plan Policies - GHG Emissions	
MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.
MS-1.4	Foster awareness of San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
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.

General Plan Policies - GHG Emissions	
MS-2.11	Require new development to incorporate green building policies, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize effectiveness of passive solar design.).
MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
MS-21.1	Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere.
TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

4.8.1.3 *Existing Conditions*

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

The project site does not currently generate GHG emissions because it is a vacant site without vehicle trips or energy demands.

4.8.2 Impact Discussion

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

Impact GHG-1: 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 (269 construction workdays) and result in a temporary increase in emissions. The proposed project would not interfere with the implementation of AB 32 in 2020 or SB 32 in 2030.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site, planned growth from build out of the General Plan FEIR, compliance with the mandatory measures and voluntary measures required by the City, and compliance with the 2030 Greenhouse Gas Reduction Strategy (GHGRS) (refer to the GHGRS compliance discussion below or Appendix B), the project would result in a less than significant GHG emissions impact. **(Less than Significant Impact)**

Impact GHG-2: Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

Envision San José 2040 General Plan

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

- Constructing in accordance with CALGreen and Title 24
- Planting trees for shade
- Providing bicycle parking on-site

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

2030 San José Greenhouse Gas Reduction Strategy

The City of San José adopted a GHGRS in 2020 to address the 2030 threshold. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant

GHG emissions under CEQA. The proposed project's consistency with these measures is detailed below and in Appendix B of this document.

Compliance with Table A of GHGRS Compliance Checklist

1. Consistency with the Land Use/Transportation Diagram (Land use and Density)
2. Implementation of Green Building Measures (General Plan Policies: MS-2.2, MS-2.3, MS-2.7, MS-2.11, and MS-16.2)
3. Pedestrian/Bicycle Site Design Measures (General Plan Policies: CD-2.1, CD-2.5, CD-2.11, CD-3.2, CD-3.4, LU-3.5, TR-2.8, TR-7.1, and TR-8.5)
4. Water Conservation and Urban Forestry Measures (General Plan Policies: MS-3.1, MS-3.2, MS-19.4, MS-21.3, MS-26.1, and ER-8.7)

The project is consistent with the General Plan designation and planned growth from build out of the General Plan FEIR. The proposed project is not a residential project and therefore would not be required to comply with the zero net carbon residential construction requirements. Consistent with GHGRS Strategies #1 and #3 the proposed project includes solar water heating and solar energy generation. The proposed project would also include bicycle parking, organic waste bins and water conservation measures to comply with GHGRS Strategies #5 and #6. The proposed project would not retrofit buildings and therefore would not be converting gas equipment to electric options for utilities.

The proposed project would also install solar energy collection devices including solar panels for clean energy generation on-site in addition to the use of GreenSource power. Additionally, the project includes space for the collection of organic waste. With these two features the proposed project would be compliant with Table B of the GHGRS by providing Renewable Energy development and meeting the Zero Waste Goals.

Therefore, the proposed project would be compliant with the applicable strategies in the 2030 San José GHGRS, and would not conflict with plans or policies regulating GHG emissions. **(Less than Significant Impact)**

4.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared by Krazan and Associates, Inc. on October 28, 2020. A copy of each of this report is attached in Appendix C 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. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

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

Federal and State

Federal Aviation Regulations Part 77

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

Government Code Section 65962.5

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

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[45]

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 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 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.

City of San José

Envision San José 2040 General Plan

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

General Plan Policies - Hazards and Hazardous Materials	
Hazardous Materials	
EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually

[45] CalEPA. "Cortese List Data Resources." Accessed April 11, 2022. https://calepa.ca.gov/sitecleanup/corteselist.

General Plan Policies - Hazards and Hazardous Materials	
	innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities.
EC-6.4	Require all proposals for new or expanded facilities that handle hazardous materials that could impact sensitive uses off-site to include adequate mitigation to reduce identified hazardous materials impacts to less than significant levels.
EC-6.5	The City shall designate transportation routes to and from hazardous waste facilities as part of the permitting process in order to minimize adverse impacts on surrounding land uses and to minimize travel distances along residential and other non-industrial frontages.
EC-6.6	Address through environmental review all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
Environmental Contamination	
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-7.3	Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, state and federal agencies prior to approval of a development or redevelopment project.
EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
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.

General Plan Policies - Hazards and Hazardous Materials	
Safe Airport	
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Community Health, Safety, and Wellness	
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

4.9.1.2 *Existing Conditions*

The project site is currently undeveloped, vacant land. According to the Phase I ESA, groundwater depth encountered in the vicinity of the site ranges between 30 and 40 feet bgs flowing generally southwest. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Site History

A land use history of the site was compiled based on aerial photographs, historical city directories, Sanborn fire insurance maps, and agency records. The 1939 to 1980 aerial photographs and topographic maps show the project site occupied by row crops and other agriculture activities. On aerial photographs dated from 1982 to 1998, the agricultural fields appear to be fallow agricultural land.

Historical farming operations conducted on the subject site and the adjoining properties resulted in impacts to surface level soils by environmentally persistent pesticides. Remediation was conducted in response to the identified soil impacts which required the removal of the upper 1.5 to 4.0 feet of soil across the subject site and these soils were replaced soils with soils containing pesticide concentrations which are determined to be lower than established hazard thresholds. Cleanup goals consistent with California Human Health Screening Levels and proposed commercial land use were established, and these cleanup goals were utilized as the criteria to determine clean fill and acceptable pesticide impact concentrations for various backfill activities.

The on-site excavation subsequently was backfilled and compacted with soils of well-defined pesticide content to four feet below grade, and a geomembrane[46] was installed and the excavation was backfilled to roughly two feet above grade with six feet of clean fill soil that does not contain contaminants. The soil remediation on-site was engineered for the proposed commercial redevelopment of the property and was implemented under oversight of the City of San Jose Environmental Services Department.

There are also two soil and debris mounds located in the northern portion of the subject site and a soil mound containing concrete debris located in the southern portion of the subject site of unknown origin and composition which may contain hazardous materials.

Asbestos-Containing Materials and Lead-Based Paint

There are no existing structures on-site, therefore, these materials were determined not to be present on-site.

4.9.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☒	☐	☐
2) 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?	☐	☐	☒	☐
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒

[46] A geomembrane is very low permeability synthetic membrane liner or barrier used with any geotechnical engineering related material to control fluid (liquid or gas) migration in the soil and groundwater.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
4) 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?	☐	☐	☐	☒
5) 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?	☐	☐	☐	☒
6) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
7) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	☐	☐	☒	☐

Impact HAZ-1: Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Construction Impacts

The proposed project would be constructed on a vacant site which has previously been remediated for pesticides and other agriculture related hazardous materials. The project site has a barrier four feet below the ground surface separating the clean fill soil from potentially contaminated soil below this barrier. During construction, the proposed project would require some grading and installation of utility connections for the commercial building. This would require some shallow excavation on-site. Excavation would be to a depth of approximately three feet and is not expected to penetrate the barrier overlaying the contaminated soil materials. Therefore, the proposed project would not expose workers on-site to hazardous materials.

Impact HAZ-1 The presence of soil with elevated levels of pesticides at depths greater than four feet below the ground surface and illegally dumped debris piles could present a hazard to construction workers during site redevelopment.

Mitigation Measure

MM HAZ-1 Prior to issuance of any grading permits, the project applicant shall retain a qualified environmental professional to complete a Site Management Plan (SMP) that documents the site conditions and includes procedures to follow during construction. The SMP shall describe the geomembrane barrier located at four

feet below the ground surface and the elevated levels of pesticides in the soil below the geomembrane. The SMP must include standard conditions and procedures such as dust control measures, health and safety practices and soil management. The SMP shall contain procedures for sampling, testing and appropriate disposal of the soil and debris stockpiles that have been illegally dumped on the property. The SMP shall be submitted to the Director of Planning, Building and Code Enforcement, or Director's designee, and the Environmental Compliance Officer of the City of San José's Environmental Services Department prior to issuance of any grading permits.

The proposed project would not result in a significant environmental or public hazard associated with the routine transport, use, or disposal of hazardous materials during construction with the implementation of MM HAZ-1.

Operational Impacts

The proposed project would construct a commercial building for use as retail and restaurant space. These land uses would not require the handling or transport of highly hazardous materials. Minor use of low-grade chemicals for cleaning and other operations would occur on-site however these would not be present in quantities that would create a hazard for people working or visiting the proposed project. Therefore, the proposed project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials during operations. **(Less than Significant Impact with Mitigation Incorporated)**

Impact HAZ-2:	**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?**

The project proposes to construct a commercial development with retail and restaurant spaces which would store basic household cleaning chemicals and solvents on-site. These substances would be in very small quantities and are not substantially hazardous in these quantities. Therefore, in the event of a reasonably foreseeable upset or accident, these chemicals would not result in a significant release of hazardous materials into the environment. The project would create a less than significant hazard to the public or environment through the release of hazardous materials into the environment. **(Less than Significant Impact)**

Impact HAZ-3:	**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 project site is located approximately one-quarter mile southeast of the Vinci Park Elementary School (1311 Vinci Park Way). The project would construct a commercial development with retail and restaurant space which would store and utilize basic household cleaning chemicals and solvents on-site. These uses would not emit hazardous emissions or handle hazardous materials on-site; therefore, the project would not impact schools within one-quarter mile of the project. **(No Impact)**

Impact HAZ-4:	**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, create a significant hazard to the public or the environment?**

The proposed project is not 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, the proposed project would not create a significant hazard to the public or the environment. **(No Impact)**

Impact HAZ-5:	**Would the project be 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. The project would not result in a safety hazard or excessive noise for people residing or working in the project area?**

The project site is not located in the airport land use plan area for the Norman Y. Mineta Airport or Reid-Hillview Airport. The project site is approximately 3.1 miles away from the Norman Y. Mineta Airport and 3.7 miles north Reid-Hillview Airport. The project would not interfere with airport operations or create a safety hazard or excessive noise for people working in the project area. **(No Impact)**

Impact HAZ-6:	**Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

The project would construct a commercial development on a vacant lot. The project would not interfere with established evacuation routes in the City of San José. Additionally, the only evacuation plan applies to the Norman Y. Mineta airport located 3.5 miles away from the project site. The project would not impact the implementation of this plan in the event of emergency and would not physically interfere with adopted emergency response or emergency evacuation plans in the regional vicinity of the project. **(No Impact)**

Impact HAZ-7:	**Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?**

The project would construct a commercial development on the existing vacant site. While this would create additional population on the project site, which could be put at risk of wildland fire, the project site is not located in a Very High Fire Hazard Zone.[47] Therefore, the project would not experience fire hazards, and although there would be an increase in the density of people on-site, the project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires. **(Less than Significant Impact)**

[47] Cal Fire. Fire and Resource Assessment Program Map of San Jose. *Very High Fire Hazard Severity Zones in LRA*. October 8, 2008.

4.10 HYDROLOGY AND WATER QUALITY

4.10.1 Environmental Setting

4.10.1.1 *Regulatory Framework*

Overview

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

Federal and State

National Flood Insurance Program

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

Statewide Construction General Permit

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

Regional and Local

San Francisco Bay Basin Plan

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

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

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[48] 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.

Water Resources Protection Ordinance and District Well Ordinance

The Santa Clara Valley Water District (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.

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

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

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

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

[48] MRP Number CAS612008

catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

City of San José

Post-Construction Urban Runoff Management Policy 6-29

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the MRP. This policy requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit.

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

Envision San José 2040 General Plan

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

General Plan Policies - Hydrology and Water Quality	
Flooding and Stormwater Runoff	
EC-5.1	The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.
EC-5.3	Preserve designated floodway areas for non-urban uses.
EC-5.5	Prepare and periodically update appropriate emergency plans for the safe evacuation of occupants of areas subject to possible inundation from dam and levee failure and natural flooding. Include maps with pre-established evacuation routes in dam failure plans.
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.

General Plan Policies - Hydrology and Water Quality	
EC-5.13	As a part of the City's policies for addressing the effects of climate change and projected water level rise in San Francisco Bay, it requires evaluation of projected inundation for development projects near San Francisco Bay or at flooding risk from local waterways which discharge to San Francisco Bay. For projects affected by increased water levels in San Francisco Bay, the City requires incorporation of mitigation measures prior to approval of development projects. Mitigation measures incorporated into project design or project location shall prevent exposure to substantial flooding hazards from increased water levels in San Francisco Bay during the anticipated useful lifetime of structures.
Stormwater	
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.
Water	
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
ER-9.6	Require the proper construction and monitoring of facilities that store hazardous materials in order to prevent contamination of the surface water, groundwater and underlying aquifers. In furtherance of this policy, design standards for such facilities should consider high groundwater tables and/or the potential for freshwater or tidal flooding.
Water Conservation and Quality	
MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
MS-3.5	Minimize area dedicated to surface parking to reduce rainwater that comes into contact with pollutants.
MS-20.2	Avoid locating new development or authorizing activities with the potential to negatively impact groundwater quality in areas that have been identified as having a high degree of aquifer vulnerability by the Santa Clara Valley Water District or other authoritative public agency.
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.
General Provision of Infrastructure	

General Plan Policies - Hydrology and Water Quality	
IN-1.1	Provide and maintain adequate water, wastewater, and stormwater services to areas in and currently receiving these services from the City.
Water Supply, Sanitary Sewer and Storm Drainage	
IN-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
IN-3.7	Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties.
IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Development Fees, Taxes and Improvement Requirements	
IP-15.2	To finance the construction and improvement of facilities and infrastructure systems for which the demand for capacity cannot be attributed to a particular development, consider a series of taxes or fees through which new growth collectively finances those facilities and systems, as follows. • Construction Tax and the Conveyance Tax (the latter paid in connection with any transfer of real property, not just new development) provide revenue for parks, libraries, library book stock, fire stations, maintenance yards and communications equipment. • The Building and Structures Tax and Commercial/Residential/Mobilehome Park Tax provide revenue for the construction of San José's major street network. • Connection Fees provide revenue for the construction of storm sewers, sanitary sewers and expansions of sewage treatment capacity at the Water Pollution Control Plant. • Fees and taxes may need to be adjusted from time to time to reflect changing costs and new requirements. Additionally, new fees or taxes may need to be imposed to finance other capital and facility needs generated by growth. • Where possible, if a developer constructs facilities or infrastructure for which these taxes are imposed, the developer may be provided with corresponding credits against the applicable taxes or fees.

4.10.1.2 *Existing Conditions*

Flooding and Dam Failure

Based on the FEMA FIRM (Map 06085C0088J), the project site is located in Flood Zone AO. Zone AO is in an area of one-percent chance of flooding to a depth of one to three feet. The project site is defined as having a two-foot flood depth average.[49]

Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami. The project area is flat and there are no mountains in proximity that would affect the site in the event of a mudflow.

Storm Drainage and Water Quality

The City of San José owns and maintains the municipal storm drainage system which serves the project site. Stormwater from the project site infiltrates into the ground or sheet flows into the local storm drainage system which flows into Upper Penitencia Creek, which carries stormwater to Coyote Creek then into San Francisco Bay. There is no overland stormwater flow from the project site directly into any waterway.

Coyote Creek was listed as impaired with diazinon sediment toxicity, and trash in the 2016 State Water Resources Control Board's 303(d) list. Coyote Creek has since been placed in the "Water Quality Limited Segments" list because standards are not met and a Total Maximum Daily Load (TMDL) is required, but not yet completed, for at least one of the pollutants being listed for this segment.

There is an existing 30-inch storm drain line that runs along Berryessa Road that serves the site.

Groundwater

Groundwater levels fluctuate seasonally depending on variations in rainfall, tidal influences, and other factors. Groundwater depth beneath the site is 30 to 40 feet below the surface.

4.10.2 Impact Discussion

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

[49] FEMA. FEMA FIRM Map No. 06085C0088J. Accessed April 11, 2022.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
2) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
3) 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?	☐	☐	☒	☐
4) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☒	☐
5) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

Impact HYD-1: Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction

The project would require the excavation and grading of the site during construction. Under existing conditions most water on the project site would infiltrate into the soil on-site with the remaining runoff flowing into the municipal stormwater system. During construction, construction vehicles could disturb soil and create dust that may cause stormwater runoff to contain pollutants, including soil particulate matter, fuels, solvents, and other construction related contaminates. The project site is approximately 2.76 acres; therefore, the project would disturb greater than one acre of soil and must comply with the Construction General Permit. To manage stormwater during construction the project will prepare a SWPPP, outlining a plan to control on-site stormwater pollution, and implement stormwater control BMPs during construction to prevent degradation of surface water bodies. In

addition, consistent with the General Plan, the project shall implement standard permit conditions to prevent stormwater pollution and minimize potential sedimentation during construction.

Groundwater beneath the project site is approximately 30 to 40 feet below the surface of the ground. The project would only require surface level excavation and grading without interaction with existing ground water. Therefore, the project would not degrade groundwater quality.

Standard Permit Conditions:

Consistent with the General Plan, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to, the following:

- 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 knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

The implementation of the standard permit conditions and measures included in a SWPPP prepared for the project would minimize the impacts from construction stormwater pollution to surface and ground water resources to a less than significant impact.

Operations

The proposed project would create more than 10,000 square feet of impervious surface area. 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 LID-based stormwater treatment controls to treat post-construction stormwater runoff.

During operations of the project, three types of stormwater treatment controls will be implemented throughout the site to capture and process stormwater before it is discharged. The project will utilize lined and unlined bioretention areas with an underdrain and concrete lined flow-through planters with an underdrain. The flow-through planters will be utilized as a part of the medians located throughout the parking lot area and the lined/unlined bioretention areas would be located adjacent to the buildings near roof drainage spouts.

The treatment controls would be designed in compliance with the requirements as outlined in Appendix C of the C.3 stormwater handbook, which is aligned with the City requirements. Treatment controls would also be sized appropriately, for a rainfall rate of 0.2 inches per hour, of rainfall based on the impervious area each serves. Water landing on impervious surfaces in the parking lot would be channeled to the flow-through planter which would filter pollutants before allowing water to enter the underdrain and flow to the municipal stormwater system. Stormwater from the rooftops would flow from the downspouts to the bioretention basin which will filter the water through a soil mixture and settle in a permeable rock base where larger particulates can settle out and water can be delivered into the municipal stormwater system.

The existing site allows for groundwater to enter the soil, however it cannot infiltrate into the groundwater table because there is a membrane barrier across the site that prevents full infiltration into the ground below the site. As proposed, the project site would be 91 percent impervious within implementation of the project, however this would not substantially decrease the groundwater infiltration on site because the geomembrane barrier established across the site has low permeability to prevent soil contamination. The project site is not considered a groundwater recharge area by the SCVWD, therefore, the increased impervious surface area on-site would not impact groundwater recharge in the San José sub basin. Water infiltration occurring on the project site would occur through the three unlined bioretention basins located on the west corner of the project site. These infiltration areas would feature filtration of pollutants via the soil media allowing filtered water to infiltrate into the ground.

The project would capture and control stormwater and provide filtration of pollutants of concern before water is released into the municipal stormwater system. The project would comply with the RWQCB Municipal Regional Permit Provision C.3 and City's Policy No. 6-29 requirements for stormwater pollution prevention; therefore, the project would have a less than significant impact on surface or ground water quality. **(Less than Significant Impact)**

Impact HYD-2:	**Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?**

The project site is not located in a groundwater recharge area as defined in the SCVWD Groundwater Management Plan. The existing project site does not allow for infiltration of groundwater because, although the surface is currently 100 percent pervious, the geomembrane later installed below the surface has low permeability. Although the site provides infiltration on-site, there is a restrictive layer established for contaminated soil isolation approximately six feet below the surface which would create a barrier that would prevent full infiltration of the water on-site. Therefore, the

proposed project would have a less than significant impact on groundwater recharge or substantially decrease groundwater supplies on the project site. **(Less than Significant Impact)**

Impact HYD-3:	**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?**

The project would significantly reduce the permeability of the project site. The existing project site is 100 percent permeable and allows for the infiltration of stormwater that falls on-site. Under project conditions, 91 percent (109,901 square feet) of the project site would contain impervious surfaces which would increase the stormwater runoff from the site.

The project proposes LID treatment control measures that would capture and treat 100 percent of the impervious surfaces added to the project site.. During the majority of storm events the treatment control measures will treat 100 percent of on-site stormwater before passing it on to the municipal stormwater system. These systems would also provide for a buffer for the municipal stormwater system by delaying the storm surge which would minimize the increased quantity of stormwater introduced to the system at one time.

Therefore, the project would increase the amount of runoff generated on site, however, through LID treatment control measures, the project would not substantially alter existing drainage and would not significantly impact on/off-site drainage or exceed the existing or planned stormwater drainage system. **(Less than Significant Impact)**

Impact HYD-4:	**Would the project risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones?**

The project site is not located in an area of tsunami or seiche risk. The project is located in Flood Zone AO with a one-percent chance of flood with an average depth of two feet. The project proposes commercial and restaurant space. These spaces do not include outdoor storage of hazardous materials and would not present a risk of contamination in the even of flooding on site. Therefore, the project would result in a less than significant risk of release of pollution in the event of inundation caused by flooding. **(Less than Significant Impact)**

Impact HYD-5:	**Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?**

The San Francisco Bay RWQCB identifies the water quality requirements for surface and ground water resources and identifies policies and objectives for water bodies to provide beneficial uses. The proposed project would implement LID and treatment control measures to control stormwater and

associated pollutants before they leave the project site. The project would not contribute to surface water pollution; therefore, the project would not conflict or obstruct the San Francisco Bay Basin (Region 2) Water Quality Control Plan.

In addition, the proposed project would not create additional sources of pollution, would not extract from groundwater resources, and would not inhibit the recharge of groundwater in the San José sub basin. Therefore, the project would not conflict with the implementation of the groundwater provisions in the Water Quality Control Plan or the SCVWD Groundwater Management Plan. **(Less than Significant Impact)**

4.11 LAND USE AND PLANNING

4.11.1 Environmental Setting

4.11.1.1 *Regulatory Framework*

City of San José

Envision San José 2040 General Plan

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

General Plan Policies - Land Use	
CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
CD-1.15	Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.
CD-2.3	Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate. 1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways. 2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area. 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs.
CD-4.5	For new development in transition areas between identified growth areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building

General Plan Policies - Land Use	
	orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.
CD-4.9	For development subject to design review, the design of new or remodeled structures will be consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.
TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptable of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
IP-1.5	Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and the 2040 General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards including heights to achieve vital mixed-use complete communities and facilitate their implementation.
IP-1.6	Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance 2040 General Plan Vision, goals and policies and benefit community welfare.
IP-1.7	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning

General Plan Policies - Land Use	
	process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.
IP-1.8	Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.

4.11.1.2 *Existing Conditions*

Existing Land Uses

The approximately 2.76-acre project site is comprised of three parcels (APNs 254-80-021, -022, -023) located at the southeast corner of the intersection of Jackson Avenue and Berryessa Road in the City of San José. The site is currently undeveloped.

Surrounding Land Uses

Development surrounding the project site consists of single and multi-family residential development. Land uses across Berryessa Road to the north and across Jackson Avenue to the west are primarily single-family detached residences. To the east and south, adjacent to the project site is a multi-family planned development area with three-story structures. Across the intersection to the northwest of the project site is a multi-family development consisting of one to two-story structures.

Existing Land Use Designation and Zoning

The project site is designated Neighborhood/Community Commercial under the City's General Plan and has a zoning designation of Planned Development [A(PD)]. The project is not located in an identified planned growth area. The Neighborhood/Community Commercial designation allows for a broad range of commercial activity, including neighborhood serving retail and services and commercial/professional office development. Neighborhood/Community Commercial uses typically have a strong connection to the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use, and public interaction. The Neighborhood/Community Commercial designation allows for a FAR up to 3.5 (one to four stories)

4.11.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) Physically divide an established community?	☐	☐	☐	☒
2) 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?	☐	☐	☒	☐

Impact LU-1:	Would the project physically divide an established community?

The project site is located in an urban area of San José surrounded by multiple residential uses. The project proposes the construction of a commercial development. The proposed use and density are consistent with the surrounding development and what was envisioned in the General Plan. The project would not introduce an incompatible use into the project area.

The project would connect with the surrounding residential developments and provide walkable retail spaces. The project layout and design does not include any physical features that would physically divide the community (e.g. blocking of roadways or sidewalks) and, for these reasons, implementation of the proposed project would not divide an established community. **(Less than Significant Impact)**

Impact LU-2:	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 project is a commercial development supporting the surrounding residential neighborhoods. This provides a walkable area with pedestrian facing businesses for residential areas near the project. The General Plan designation of Neighborhood/Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use, and public interaction. The proposed project complies with this designation; therefore, the project would not conflict with the General Plan land use and policies governing the land use.

The project proposes a rezoning from A(PD) Planned Development Zoning District to CP Commercial Pedestrian Zoning District. The CP Commercial Pedestrian District is a district intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. As stated above the project would serve pedestrians and residents in developments surrounding the project site and promote connection with the nearby community.

Therefore, with the rezoning applied to the project site the project would comply with the General Plan and zoning requirements and would not create a significant impact due to conflict with any land use plan, policy, or regulation. **(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 General Plan states that according to the mandate of the SMARA, the SMGB has designated the Communications Hill Area as an area containing mineral deposits which are of regional significance as a source of construction aggregate materials. There are no other areas in San José identified by the State Geologist nor the SMGB as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. The project site is located approximately six miles north of the Communications Hill area and is not located in an area containing mineral deposits of local, regional, or statewide significance.

4.12.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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?	☐	☐	☐	☒
2) 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?	☐	☐	☐	☒

Impact MIN-1:	Would the project result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

The project site is not located in an area containing a known mineral resource of regional or state value. The closest mineral resources are located approximately six miles south at communications Hill. Therefore, the project would not impact these mineral resources. **(No Impact)**

Impact MIN-2:	Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

The project site is not located in an area containing a known mineral resource of locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. Therefore, the project would not impact these mineral resources. **(No Impact)**

4.13 NOISE

The following discussion is based on a Noise and Vibration Assessment prepared for the project by Illingworth and Rodkin, Inc. on August 6, 2020. A copy of each of this report is attached in Appendix E 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.[50] 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.

[50] 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 Sound Transmission Class (STC) rating of at least 50 or a composite Outdoor-Indoor Transmission Class (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.

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Table 3.12-3 below.

Table 4.13-1: General Plan Land Use Compatibility Guidelines (GP Table EC-1)

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

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

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

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

In addition, the following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise and are applicable to the project.

General Plan Policies – Noise and Vibration	
Noise and Vibration	
EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: – For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. – For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards.
EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

General Plan Policies – Noise and Vibration	
EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
EC-1.9	Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.
EC-1.11	Continue to require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.
EC-2.3	Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or buildings that are documented to be structurally weakened, a continuous vibration limit of 0.08 inch/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 inch/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

4.13.1.3 *Existing Conditions*

In order to establish the environmental baseline for the project, noise data contained in the City of San José General Plan was reviewed. The noise environment would be comprised primarily of traffic noise from passing cars. The project site is located within the 65 to 75 decibel road noise contour due to its proximity to the I-680 freeway and these noise levels are not projected to increase measurably by 2035. No baseline measurements were conducted as a part of the noise report due to shelter in place mandates at the time of the study. The site is vacant and does not currently generate any noise.

The nearest sensitive receptors to the site are the surrounding residential structures located less than 10 feet from the project site.

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:				
1) 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?	☐	☐	☒	☐
2) Generation of excessive groundborne vibration or groundborne noise levels?	☐	☒	☐	☐
3) 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?	☐	☐	☒	☐

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL (except in the environs of the Norman Y. Mineta San José International Airport and the Downtown) and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan Policy EC-1.1).

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3.0 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project-generated noise level increases of 3.0 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the addition of project noise, a noise level increase of 5.0 dBA DNL or greater is considered significant.

City of San José Standards

The City of San José relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain normally acceptable.

Construction Vibration

The City of San José relies on guidance developed by Caltrans to address vibration impacts from development projects in San José. A vibration limit of 12.7 millimeters per second (mm/sec; 0.5 inch/sec) PPV is used for buildings that are structurally sound and designed to modern engineering standards. A conservative vibration limit of five mm/sec (0.2 inches/sec) PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of two mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection.

Impact NOI-1:	**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

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

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. The construction of the proposed project would involve

grading, excavation to lay foundations, trenching, building erection, and paving. The hauling of imported and exported soil and materials would generate truck trips on local roadways as well.

During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. Typical construction noise levels at 50 feet would range from 71 to 89 dBA depending on the phase of construction and amount of equipment on-site.

With the minimum required equipment present at the site, construction noise levels produced by the project would typically range from 71 to 83 dBA Leq at a distance of 50 feet from the source. Construction-generated noise levels drop off at a rate of about 6 dBA per doubling of the distance between the source and receptor. Additionally, obstruction provided by buildings or terrain can provide an additional five to 10 dBA noise reduction at distant receptors. The nearest noise-sensitive residential land uses are located approximately 130 feet south of the centerpoint of the proposed project, which is the location that would conservatively represent the highest construction noise. Construction noise levels at a distance of 130 feet would range from 69 to 81 dBA with all pertinent equipment present at the site and from 63 to 75 dBA with the minimum required equipment present at the site, which would exceed the ambient daytime noise levels in the area by more than five dBA.

Because the ambient noise levels at the surrounding land uses would be substantially increased during various times throughout the duration of construction, which is estimated to be just greater than 12 months, the proposed project would be required to comply with the following standard permit conditions to reduce the impacts of construction noise on sensitive receptors.

Impact NOI-1 The proposed project would result in substantial construction noise for a period greater than 12 months which would result in impacts to residents near the project site. **(Significant Impact)**

Mitigation Measure

MM NOI-1.1 Prior to the issuance of any grading, demolition, or building permits the project shall, pursuant to General Plan Policy EC-1.7, prepare a construction noise logistics plan, specifying the hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints. The logistics plan shall be implemented prior to the start of construction and during construction to reduce noise impacts on neighboring residents and other adjacent uses.

- The following best management practices shall be implemented during project construction:
    - 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 construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
  - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - Prohibit unnecessary idling of internal combustion engines.
  - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to scree stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by five dBA.
  - Utilize "quiet" are compressors and other stationary noise sources where technology exists.
  - Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences.
  - If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
  - Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to current the problem, Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

With the implementation of GP Policy EC-1.7, Municipal Code requirements, and the above measures, the construction noise impact would be reduced to a less than significant level.

Project Vehicle Operations

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. The existing noise environment in the surrounding area currently exceeds 60 dBA DNL; therefore, a significant impact would occur if project-generated traffic would permanently increase noise levels by three dBA or more.

For the proposed project, project traffic volumes were compared to existing volumes to estimate the project's contribution to the permanent noise level increase. Based on this comparison, traffic noise increases of zero to one dBA were estimated for roadways serving the site. The project would neither result in a doubling of traffic volumes nor result in a permanent noise increase of three dBA DNL or more. Therefore, the proposed project would not result in significant noise impacts from project generated traffic.

Parking Lot Activities

The center of the proposed parking lot would be located approximately 70 feet from the nearest noise-sensitive land uses. Noise associated with the parking lot would include on-site circulation, loud engines, car alarms, squealing tires, door slams, and human voices. The maximum sound of a passing car at 15 mph typically ranges from 48 to 58 dBA at a distance of 70 feet. The noise generated during an engine start is at a similar level to the noise of a passing car and door slams create lower noise levels than passing cars. The hourly average noise level resulting from all of these noise-generating activities in a busy parking lot typically ranges from 43 to 53 dBA at a distance of 70 feet from the parking area. The parking lot would primarily be used between the hours of 7:00 a.m. and 10:00 p.m. and would result in a noise level of approximately 51 dBA, which is below the City's 55 dBA DNL noise level threshold. Parking lot noise levels would be below ambient traffic noise levels generated along Berryessa Road and lower at sensitive receptors located further from the site or shielded by noise barriers. Therefore, the proposed project would result in a less than significant noise impact.

Project Mechanical Noise

Various mechanical equipment for heating, ventilation, and cooling purposes, exhaust fans, and other similar equipment would likely be located on the roof of the proposed building. Noise levels from the equipment at nearby sensitive land uses would depend on system design level specifications including the equipment location, type, size, capacity, and enclosure design.

Based on measurements of rooftop equipment at similar commercial centers in the region, noise levels of 50 to 60 dBA could be expected at a distance of 50 feet from the largest pieces of equipment. Noise levels generated by smaller mechanical equipment would be much lower, ranging from 40 to 50 dBA at 50 feet from the equipment and/or ventilation openings. Based on these worst-case estimates, noise levels generated by the operation of project mechanical equipment could reach 52 dBA at the nearest property line if unshielded equipment were located along the eastern portion of the building. The noise levels, assuming 24-hour per day operation of the rooftop mechanical equipment, could reach 58 dBA.

Impact NOI-2 The proposed project would result ambient noise exceeding 55 dBA DNL during project operations as a result of rooftop machinery functions. **(Significant Impact)**

Mitigation Measure

MM NOI-2.1 Prior to the issuance of any building permits and during building design, in accordance with the General Plan Policy EC-1.7, the following mitigation measure would be implemented to minimize potential ambient noise increases as a result of project operation:

- A detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's 55 dBA DNL noise limit at the shared property line. The study shall evaluate the noise from the equipment and predict noise levels at noise-sensitive locations. Noise control features, such as sound attenuators, baffles, and barriers, shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations, such as residences. The study shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee and the City of San José Environmental Compliance Officer for review and approval prior to the issuance of any building permits.

Mechanical equipment shall be selected and designed to reduce noise levels to meet the City's 55 dBA DNL noise level requirement at the shared property line of nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's General Plan and Municipal Code noise level requirements.

Through compliance with this mitigation measure the proposed project would result in a less than significant noise impact related to the operations of rooftop mechanical equipment. **(Less than Significant Impact with Mitigation Incorporated)**

Impact NOI-2:	**Would the project result in generation of excessive groundborne vibration or groundborne noise levels?**

Construction activities associated with the project would include demolition, site preparation, foundation work, and new building framing and finishing. Foundation construction techniques involving impact or vibratory pile driving, which can cause excessive vibration, are not proposed as part of the project. At a distance of 15 feet, the closest possible sensitive receptor, vibration levels due to construction are conservatively calculated to reach up to 0.4 in/sec PPV, which would exceed the 0.2 in/sec PPV threshold for conventional buildings, as seen in Table 4.13-1.

Table 4.13-1: Construction Vibratory Intensity for Surrounding Uses						
Equipment		**PPV (in/sec)**				
		Source Level (25 ft)	**Southeast Residential (15 ft)**	**Northeast Residential (50 ft)**	**Southwest Residential (110 ft)**	**Northwest Residential (150 ft)**
Clam shovel drop		0.202	**0.354**	0.094	0.040	0.028
Hydromill (slurry wall)	in soil	0.008	0.014	0.004	0.002	0.001
	in rock	0.017	0.030	0.008	0.003	0.002
Vibratory Roller		0.210	**0.368**	0.098	0.041	0.029
Hoe Ram		0.089	0.156	0.042	0.017	0.012
Large bulldozer		0.089	0.156	0.042	0.017	0.012
Caisson drilling		0.089	0.156	0.042	0.017	0.012
Loaded trucks		0.076	0.133	0.035	0.015	0.011
Jackhammer		0.035	0.061	0.016	0.007	0.005
Small bulldozer		0.003	0.005	0.001	0.001	0.000
Source: Illingworth & Rodkin, Inc. Berryessa Plaza Noise and Vibration Report, August 2020						

Project construction vibration levels would be capable of cosmetically damaging the adjacent residential buildings to the south and east but would fall below the General Plan threshold of 0.2 in/sec PPV at other surrounding conventional buildings located further than 30 feet from the project site. Neither cosmetic, minor, or major damage would occur beyond 30 feet. At these locations, and in other surrounding areas where vibration would not cause cosmetic damage, vibration levels may still be perceptible. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration.

Impact NOI-3: The proposed project would exceed the vibration threshold (0.354 in/sec) of 0.2 in/sec PPV during construction at residential structures within 30 feet of the project site.

Mitigation Measures

MM NOI-3.1: Prior to issuance of any demolition, grading, or building permits, whichever occurs earliest, the project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval.

The Plan shall include, but not be limited to, the following measures following measures where vibration levels due to construction activities would exceed 0.2 in/sec PPV at nearby buildings:

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

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

Through the use of the mitigation measures above, the vibratory impacts on structures located within 30 feet of the proposed project would be reduced below 0.2 in/sec by avoiding high vibratory activities in close proximity to the structures. Therefore, the proposed project would not result in the generation of excessive groundborne vibration or groundborne noise levels. **(Less than Significant Impact with Mitigation Incorporated)**

Impact NOI-3:	**Would the project be 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. The project would not expose people residing or working in the project area to excessive noise levels?**

Norman Y. Mineta San José International Airport is a public-use airport located approximately 3.1 miles southwest of the project site and the project site is well outside the 60 dBA CNEL noise contour of the airport, according to the City's new Airport Master Plan Environmental Impact Report. This means that future exterior noise levels due to aircraft would not exceed 60 dBA CNEL/DNL. According to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircraft. Similarly, Reid-Hillview Airport is located approximately 3.7 miles from the project site, and this airport produces considerably less environmental noise, as compared to Norman Y. Mineta San José International Airport. Noise levels produced by Reid-Hillview Airport aircraft are insignificant at the site and would be clearly compatible with the proposed land use. Therefore, the proposed project would not expose the area to significant excessive noise levels. **(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.[51] The City of San José Housing Element and related land use policies were last updated in April 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[52]

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

4.14.1.2 *Existing Conditions*

According to the California Department of Finance, the population of the City of San José as of 2019 is approximately 1,043,058.[53] The projections produced by Association of Bay Area Governments

[51] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 11, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[52] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/.
[53] State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2019. Sacramento, California, May 2019.

(ABAG) predict the City population to increase to 1,357,845 by 2040.[54] The project site is a vacant parcel that does not currently contain housing or contribute to the population of the City of San José.

4.14.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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)?	☐	☐	☒	☐
2) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Impact POP-1: 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 project would not construct additional housing or expand infrastructure which could lead to the construction of additional housing. The project would add retail businesses which would serve the existing residential community. The proposed 22 retail spaces would incrementally increase the jobs to housing ratio in the City of San José but this would not require any additional housing because the City has more housing than jobs. Therefore, the project would not induce substantial unplanned population growth in directly or indirectly as a result of the project. **(Less than Significant Impact)**

Impact POP-2: Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project site is a vacant parcel that does not contain existing housing. Therefore, the proposed project would not result in the displacement of existing population or housing or require replacement housing. **(No Impact)**

[54] ABAG, Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region. 2017.

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.

City of San José

Envision San José 2040 General Plan

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

General Plan Policies – Public Facilities and Services	
Law Enforcement and Fire Protection	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José's community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.
ES-3.3	Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and fire facilities and delivery of services keeps pace with development and growth of the city.
ES-3.6	Work with local, State, and Federal public safety agencies to promote regional cooperation in the delivery of services. Maintain mutual aid agreements with surrounding jurisdictions for emergency response.
ES-3.8	Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.
ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.
ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
ES-3.13	Maintain emergency traffic preemption controls for traffic signals.
ES-3.15	Apply demand management principles to control hazards through enforcement of fire and life safety codes, ordinances, permits and field inspections.
ES-3.18	Maintain a program consistent with requirements of State law to inspect buildings not under authority of the Office of the State Fire Marshall.
ES-3.20	Require private property owners to remove excessive/overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to the satisfaction of the Fire Chief to prevent and minimize fire risks to surrounding properties.

4.15.1.2 *Existing Conditions*

Fire Protection Services

Fire protection services in the City are provided by the San José Fire Department (SJFD). Fire stations are located throughout the City to provide adequate response times to calls for service. The SJFD responds to all fires, hazardous materials spills, and medical emergencies in the City. Emergency response is provided by 33 fire stations, 33 engine companies, nine truck companies, and three squad units.[55] The nearest fire stations to the site are Station No. 34, located at 1634 Las Plumas Avenue, located approximately 1.3 miles southwest of the project site. The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

Police Protection Services

Police protection services for the project site is provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street, approximately two miles north of the project site. The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes of less for 60 percent of all Priority 2 (nonemergency) calls

School

The project site is located within the Berryessa Union Elementary School District and East Side Union High School District. As proposed, the project would construct a commercial development and does not include any residential land uses that would generate school-age children.

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 approximately 199 neighborhood-serving parks, three golf courses, and 10 regional parks.[56]

Libraries

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library system consists of one main library (Dr. Martin Luther King Jr. Library) and 18 open branch libraries. The nearest library to the site is Educational Park Branch Library, located approximately 1.1 mile south of the project site.

[55] City of San José. "Annual Report on City Services 2020-21". Accessed April 11, 2022.https://www.sanjoseca.gov/home/showpublisheddocument/80634/637800044609900000.
[56] City of San José. "Annual Report on City Services 2020-21". Accessed April 11, 2022.https://www.sanjoseca.gov/home/showpublisheddocument/80634/637800044609900000.

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:				
1) Fire Protection?	☐	☐	☒	☐
2) Police Protection?	☐	☐	☒	☐
3) Schools?	☐	☐	☐	☒
4) Parks?	☐	☐	☐	☒
5) Other Public Facilities?	☐	☐	☐	☒

Impact PS-1:	**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?**

As proposed, the project would construct a commercial development which would place people on-site during regular business hours, which may increase demand for fire response and related emergency services. The proposed building would be constructed in accordance with current building 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 and promote public safety. The project would be reviewed by the SJFD to ensure applicable Fire Code standards to reduce potential fire hazards are included in the project design when construction permits are issued, including sprinklers and smoke detectors. For these reasons, the project would not significantly impact fire protection services. **(Less than Significant Impact)**

Impact PS-2:	**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?**

As mentioned above, the project would place more people on-site during regular business hours which may increase demand for police response and related emergency services. Build out of the General Plan FEIR would result in the need for additional police services and police facilities but is

not anticipated to have significant, adverse environmental impacts. The project, by itself, would not require additional police services or facilities.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to avoid unsafe building conditions and promote public safety. The project would not require new police stations to be constructed or existing stations to be expanded to serve the development while maintaining City service goals. **(Less than Significant Impact)**

Impact PS-3:	**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 project proposes to construct a commercial development and would not include any residential development. No new students would be generated by the proposed project. As a result, the project would not require the construction or expansion of school facilities to maintain acceptable service ratios and performance objectives for schools. **(No Impact)**

Impact PS-4:	**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 project proposes to construct a commercial development and would not include any residential development. No new residents would be generated by the proposed project that could increase the usage of parks near the proposed project. As a result, the project would not require the construction or expansion of park facilities to maintain acceptable service ratios and performance objectives for parks. **(No Impact)**

Impact PS-5:	**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 project proposes to construct a commercial development and would not include any residential development. No new residents would be generated by the proposed project. As a result, the project would not require the construction or expansion of public facilities to maintain acceptable service ratios and performance objectives for public facilities, such as libraries. **(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.

City of San José

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

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

General Plan Policies – Recreation	
Parks, Trails, Open Space, and Recreation	
PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
PR-1.3	Provide 500 square feet per 1,000 population of community center space.

General Plan Policies – Recreation	
PR-1.9	As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately, or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/ tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.
PR-2.6	Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design.
PR-3.2	Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space.
PR-6.2	Develop trails, parks and recreation facilities in an environmentally sensitive and fiscally sustainable manner.
PR-6.5	Design and maintain park and recreation facilities to minimize water, energy and chemical (e.g., pesticides and fertilizer) use. Incorporate native and/or drought-resistant vegetation and ground cover where appropriate.
PR-7.2	Condition land development and/or purchase property along designated Trails and Pathways Corridors in order to provide sufficient trail right-of-way and to ensure that new development adjacent to the trail and pathways corridors does not compromise safe trail access nor detract from the scenic and aesthetic qualities of the corridor. Locate trail right-of-ways consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).
PR-8.5	Encourage all developers to install and maintain trails when new development occurs adjacent to a designated trail location. Use the City's Parkland Dedication Ordinance and Park Impact Ordinance to have residential developers build trails when new residential development occurs adjacent to a designated trail location, consistent with other parkland priorities. Encourage developers or property owners to enter into formal agreements with the City to maintain trails adjacent to their properties.
PR-8.7	Actively collaborate with school districts, utilities, and other public agencies to provide for appropriate recreation uses of their respective properties and rights-of-ways.

General Plan Policies – Recreation	
	Consideration should be given to cooperative efforts between these entities and the City to develop parks, pedestrian and bicycle trails, sports fields and recreation facilities.

4.16.1.2 *Existing Conditions*

The City of San José operates 199 neighborhood parks, 48 community centers, 10 regional parks, and over 61 miles of trails. The nearest parks are Vinci Park and Commodore Park, both located approximately 0.25 miles west and southeast of the project site. The nearest community center is Berryessa Community Center, located approximately 1.3 miles northeast of the project site. [57] The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities.

4.16.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) 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?	☐	☐	☒	☐
2) 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?	☐	☐	☒	☐

Impact REC-1: 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 project does not include residential units and would not substantially increase the use of recreational facilities in the surrounding areas. Future employees at retail spaces in the project may make use of nearby parks and community centers. While the project could increase the use of these recreational facilities, it would not increase the population or affect the service ratios of these facilities. Therefore, implementation of the project would have a less than significant impact on recreational facilities. **(Less than Significant Impact)**

Impact REC-2: Would the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

[57] City of San José. "Annual Report on City Services 2020-21". Accessed April 11, 2022.https://www.sanjoseca.gov/home/showpublisheddocument/80634/637800044609900000.

Recreational facilities are not proposed as part of the project and employees do not generate the same demand for recreational facilities as residents. As a result, the project would not significantly increase demand for recreational facilities or require the construction of expansion of recreational facilities. **(Less than Significant Impact)**

4.17 TRANSPORTATION

The following discussion is based on a Transportation Analysis prepared for the project by Hexagon Transportation Consultants, Inc. on August 16, 2022. A copy of each of this report is attached in Appendix E 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 are required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that 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, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. 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.

City of San José

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is at least 15 percent below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is less than or equal to existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

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.

The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

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

<table>
<tr><th colspan="2">General Plan Policies – Transportation</th></tr>
<tr><td>TR-1.1</td><td>Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).</td></tr>
<tr><td>TR-1.2</td><td>Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.</td></tr>
<tr><td>TR-1.3</td><td>Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are presented in the following table:
<table>
<tr><th colspan="3">Commute Mode Split Targets for 2040</th></tr>
<tr><th rowspan="2">Mode</th><th colspan="2">Commute Trips to and From San José</th></tr>
<tr><th>2008</th><th>2040 Goal</th></tr>
<tr><td>Drive alone</td><td>77.8%</td><td>No more than 40%</td></tr>
<tr><td>Carpool</td><td>9.2%</td><td>At least 10%</td></tr>
<tr><td>Transit</td><td>4.1%</td><td>At least 20%</td></tr>
<tr><td>Bicycle</td><td>1.2%</td><td>At least 15%</td></tr>
<tr><td>Walk</td><td>1.8%</td><td>At least 15%</td></tr>
<tr><td>Other means (including work at home)</td><td>5.8%</td><td>See Note 1</td></tr>
<tr><td colspan="3">Source: 2008 data from American Community Survey (2008).
Note 1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model.</td></tr>
</table></td></tr>
<tr><td>TR-1.4</td><td>Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.</td></tr>
<tr><td>TR-1.5</td><td>Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.</td></tr>
<tr><td>TR-1.6</td><td>Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.</td></tr>
<tr><td>TR-2.2</td><td>Provide a continuous pedestrian and bicycle system to enhance connectivity throughout the City by completing missing segments. Eliminate or minimize physical obstacles and barriers that impede pedestrian and bicycle movement, on City streets. Include consideration of grade-separated crossings at railroad tracks and freeways. Provide safe</td></tr>
</table>

General Plan Policies – Transportation	
	bicycle and pedestrian connections to all facilities regularly accessed by the public, including the Mineta San José International Airport.
TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. • Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
TR-7.1	Require large employers to develop and maintain TDM programs to reduce the vehicle trips generated by their employees.
TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.
TR-8.7	Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
TR-8.9	Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.
TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

4.17.1.2 *Existing Conditions*

Regional Roadway Network

Regional access to the project site is provided via Interstate-680 (I-680). Local access to the project site is provided via Berryessa Road, Jackson Avenue (Flickinger Avenue), King Road/Lundy Avenue, Capitol Avenue, Mabury Road, and Pepper Road (Pepper Way). These facilities are described below.

Interstate 680 is an eight-lane freeway providing regional access between San Ramon Valley and San José. It extends in a north-south direction from its junction with Interstate 280 (I-280) and US 101 near downtown San José through the East Bay to its interchange with Interstate 80 (I-80) in Fairfield. I-680 provides access to and from the project site through its interchange with Berryessa Road.

Berryessa Road is a four to six-lane east-west arterial road running from Piedmont Road to US 101, where it becomes Hedding Street. In the area near the project site, Berryessa Road is a divided six-lane roadway. Berryessa Road provides direct access to and from the project site via a right-turn only driveway.

Jackson Avenue (Flickinger Avenue) is a four-lane north-south roadway that extends from Story Road to Berryessa Road, where it transitions into Flickinger Avenue which ends west of North Capitol Avenue. Major cross streets include Alum Rock Avenue, McKee Road, Mabury Road, Berryessa Road, and Hostetter Road. Jackson Avenue provides direct access to the project site via a right-turn only driveway.

King Road (Lundy Avenue) is a four-lane north-south arterial that extends from Capitol Expressway northward to Berryessa Road, where it then transitions into Lundy Avenue.

Capitol Avenue is a north-south four- to six-lane arterial that extends from Capitol Expressway to Milpitas, transitioning to Great Mall Parkway north of Montague Expressway. Capitol Avenue generally runs parallel to and east of I-680 in San Jose. The Valley Transit Authority 901 Light Rail Transit line (Santa Teresa to Alum Rock) runs along Capitol Avenue. Capitol Avenue provides access to and from the project site via Berryessa and Mabury Roads.

Mabury Road is a two-lane east-west roadway extending from US 101 eastward to east of White Road. Mabury Road transitions into Taylor Street just east of the US 101 overpass. Mabury Road provides access to the project site via Jackson Avenue.

Pepper Road (Pepper Way) is a two-lane residential roadway extending from Jackson Avenue eastward/northward to Berryessa Road. Pepper Road (north/south segment) transitions into Pepper Way (east/west segment) at the curve on the road. Direct access to the project site would be provided via a full access driveway along Pepper Road.

Existing Pedestrian Facilities

Pedestrian facilities near the project site consist mostly of sidewalks along the streets in the study area. Sidewalks are found along both sides of all streets near the project site including Berryessa Road, Jackson/Flickinger Avenue, and Pepper Road/Way. The adjacent neighborhood south and east of the project site includes pedestrian sidewalks/pathways that provide access to all the residential units to/from Pepper Road, Berryessa Road, and Jackson Avenue. Other pedestrian facilities in the project area include marked crosswalks at the intersection of Pepper Way and Sundrop Lane, as well as crosswalks and pedestrian push buttons along all legs of the Jackson Avenue and Berryessa Road intersection.

Overall, the existing network of sidewalks and crosswalks provides good connectivity and provides pedestrians with safe routes to the project site from the adjacent neighborhoods.

Existing Bicycle Facilities

Class I Bikeways (Bike Path). Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. Nearby Class I bikeways include the Penitencia Creek Trail and a bike path between Berryessa and Mabury Roads.

The Penitencia Creek Trail is located near the project area and is a continuous multi-purpose pathway for pedestrians and bicycles that is separated from motor vehicles. This path is accessible from the project site via Jackson Avenue, less than half-a-mile south of the project site. The bike path that runs between Berryessa and Mabury Roads is located parallel to the Berryessa Transit Center access roadway.

Class II Bikeway (Bike Lane). Class II bikeways are striped bike lanes on roadways that are marked by signage and pavement markings. Within the vicinity of the project site, striped bike lanes are present on the following roadway segments.

- Lundy Avenue (King Road), along the entire length of the street with a discontinuity between Berryessa Road and the Penitencia Creek Trail
- Mabury Road, between US 101 and White Road
- Flickinger Avenue (Jackson Avenue), between Hostetter Road and Story Road
- Sierra Road, between Lundy Avenue and Flickinger Avenue
- Capitol Avenue, along the entire length of the street

Although most of the residential streets near the project site do not have striped bike lanes or are designated as bike routes, due to their low traffic volumes, many of them are conducive to bicycle travel. The existing bicycle facilities are shown in Figure 4.17-1.

Source: Hexagon Transportation Consultants, Inc., May 5, 2022.

EXISTING BICYCLE FACILITIES

FIGURE 4.17-1

Existing Transit Services

Existing transit services near the project site are provided by the VTA and are shown on Figure 4.17-2. These bus lines are listed in Table 4.17-1. Bus stops are located 300 to 400 feet from the project site near the intersection of Jackson Avenue and Berryessa Road. These bus stops are served by Local Routes 61 and 70. Local Route 61 provides service between the project site and the Berryessa Light Rail Station, located along Capitol Avenue at its intersection with Berryessa Road, approximately 0.6 miles northeast of the project site. The Berryessa Light Rail Station is served by the Orange Line, which provides service between Mountain View and Alum Rock.

Table 4.17-1: Existing Transit Services

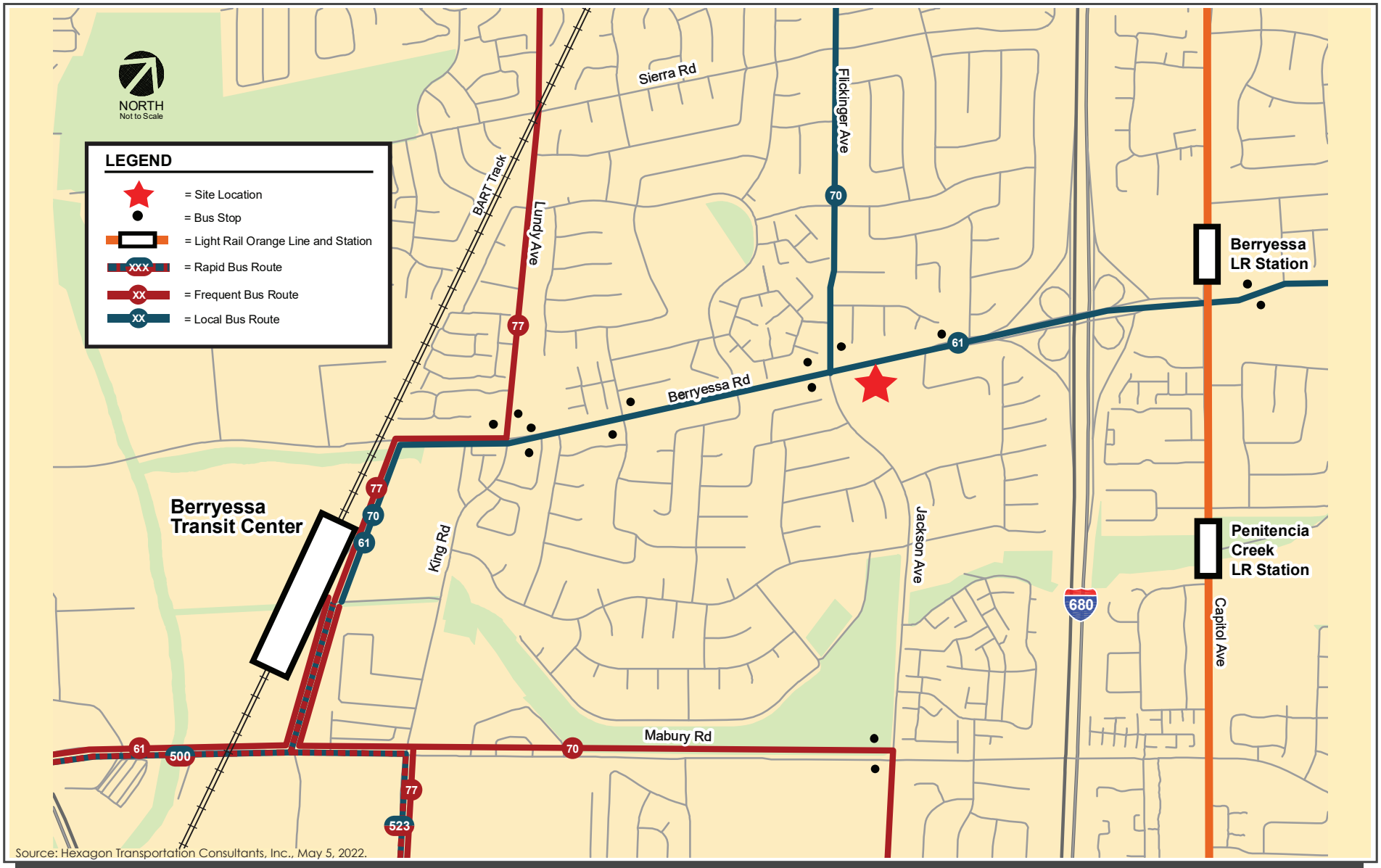
Route Number	Route Description	Headway (minutes)[1]
Frequent Route 61[2]	Sierra & Peidmont to Good Samaritan Hospital	20-40
Frequent Route 70[2]	Milpitas BART to Eastridge via Jackson	20-60
Frequent Route 77	Milpitas BART to Eastridge via King	30
Frequent Route 500	San José Diridon Station to Berryessa BART	10-20
Frequent Route 523	Berryessa BART to Lockheed Martin via De Anza College	15-20
LRT Orange Line	Mountain View – Alum Rock	30
BART Orange Line	Richmond to Berryessa/North San José	30
Bart Green Line	Daly City to Berryessa/North San José	30

Source: Hexagon Transportation Consultants. Berryessa Plaza Commercial Center Transportation Analysis. August 2022.

[1]Headways during peak periods

[2]Routes 61 and 70 operate as local routes east of Berryessa Transit Center (including near the project site) and as frequent service routes west of Berryessa Transit Center.

Local Route 61 also provides direct service between the project site and the Berryessa Transit Center. The Berryessa Transit Center is located on the south side of Berryessa Road, between Berryessa and Mabury Roads and adjacent to the Flea Market, which is located one mile southwest of the project site. The Berryessa Transit Center provides access to BART services to Daly City (Green Line) and Richmond (Orange Line), as well as many VTA bus services. Rapid Route 500 provides direct service to Downtown San José and the Diridon Transit Center. Rapid Route 523 also provides direct service to Downtown José before continuing to the Lockheed Martin Transit Center via De Anza College.



Source: Hexagon Transportation Consultants, Inc., May 5, 2022.

EXISTING TRANSIT FACILITIES

FIGURE 4.17-2

4.17.2 Impact Discussion

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

Impact TRN-1: Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

The proposed project would construct a commercial retail center on a vacant lot adjacent to residential structures. The new commercial retail center would supplement surrounding residential land uses with local serving retail and would create a pedestrian friendly environment with direct connections to the adjoining neighborhoods and transit stops These project elements are consistent with the goals and policies in the Envision 2040 General Plan.

Additionally, the proposed project would comply with the local ordinances governing site circulation, emergency access, and pedestrian access and would not alter the existing surrounding transportation resources in a manner that would decrease their services or functionality. Therefore, the proposed project would not conflict with program, plan, ordinance, or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities. **(Less than Significant Impact)**

Impact TRN-2: Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

The proposed project is a 47,000 square-foot commercial center with local serving retail and no drive through operations. Based on San José VMT screening criteria, local-serving retail projects with 100,000 square feet of total gross floor area or less, that do not include drive through operations, are considered local-serving retail which would not exceed the thresholds for VMT. Therefore, the proposed project would result in a less than significant impact for VMT and would be consistent with the CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

Impact TRN-3:	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)?

Access to the project site would be provided via three driveways:

- a right-turn only driveway on Jackson Avenue,
- a right-turn only driveway on Berryessa Road,
- and a full-access driveway on Pepper Road

These driveways would be located at least 150 feet from the existing signalized intersections and would be constructed within the San José design guidelines for driveway locations. According to the Transportation Analysis prepared by Hexagon, all driveways would provide the requisite sight distances and would not have obstructions that may limit visibility of vehicles exiting the site.

The on-site circulation of the proposed project would be designed compliant with the ordinances and policies that govern the pedestrians and vehicles access and movement on site. Therefore, the proposed project would not substantially increase hazards due to a geometric design feature or incompatible use. **(Less than Significant Impact)**

Impact TRN-4:	Would the project result in inadequate emergency access?

Emergency vehicles could enter and exit the site through any of the three proposed driveways. However, due to the limited access to Jackson Avenue and Berryessa Road, emergency vehicles could be forced to complete a U-turn along one of these roadways when accessing or leaving the site. Once on-site, emergency vehicles would circulate around to parking lot to access specific areas within the site. To provide adequate on-site circulation for larger vehicles, including emergency vehicles, the design of all internal roadways and access driveways would be required to conform to City of San José design standards and guidelines. The design of the site must include adequate turn radii, driveway width, and drive aisle width. Through adherence to City design standards and guidelines, emergency and larger vehicle access and circulation within the project site would be adequate and the project would result in a less than significant impact on emergency access. **(Less than Significant Impact)**

4.17.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address the operational transportation effects of a proposed project.

4.17.3.1 *Site Parking Requirements*

Operational Trip Generation

Project trips were estimated using the ITE trip generation rates and reduced with applicable trip adjustments as consistent with the San José Transportation Analysis Handbook. The net trip generation is included in Table 4.17-2 below.

Table 4.17-2: Operational Trip Generation

Land Use	Daily Trips	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Shopping Plaza	3173	50	31	81	120	124	244
Location Based Reduction	-412	-7	-4	-11	-16	-16	-32
Retail Passby	-85	0	0	0	-42	-42	-85
Total Net Project Trips	2676	43	27	70	62	65	127

Source: Hexagon Transportation Consultants. Berryessa Plaza Commercial Center Transportation Analysis. August 2022.

Operational Level of Service Analysis

Intersection levels of service were evaluated against applicable City of San Jose intersection operations standards. The results of the level of service analysis show that all study intersections currently operate at an acceptable LOS D or better during both the AM and PM peak hours, based on the City of San Jose intersection operations standard of LOS D.

The intersection operations analysis shows that all of the intersections near the project would operate at acceptable levels of service, with the exception of the intersection of Capitol Avenue and Berryessa Road. The intersection of Capitol Avenue and Berryessa Road is projected to operate at unacceptable LOS E during the PM peak hour, however, the addition of project traffic to the Capitol Avenue/Berryessa Road intersection would not cause the intersection's delay to increase by four or more seconds. Additionally, the demand-to-capacity ratio (V/C) would not increase by 0.01 or more during the peak hours. Therefore, based on City of San Jose guidelines, the project would not have an adverse effect on intersection operations at any of the nearby intersections.

Freeway Segment and Ramp Operations

The LTA prepared for the project determined that the proposed project would contribute less than one percent to any impacted freeway segment near the project and therefore would not adversely affect the freeway operations. Additionally, the proposed project would provide trips to the I-680 freeway ramps near the project. These ramps were identified to be underutilized and would provide adequate storage for the proposed project trips. Therefore, the proposed project would not adversely affect vehicle queueing for freeways near the site.

Vehicular Parking

The City of San Jose Zoning Code indicates that neighborhood shopping centers are required to provide one vehicular parking space for every 200 square feet of floor area. The City of San José Municipal Code defines "floor area" as 85 percent of the "total gross floor area" of the building.

Based on the City's parking requirements, the proposed project would be required to provide a total of 200 parking spaces to serve the proposed project. The proposed project would provide a total of 200 parking spaces; therefore, the proposed project would meet the requirement for parking spaces established in the City Code.

Bicycle Parking

The City of San Jose Zoning Code indicates that neighborhood shopping centers are required to provide one bicycle parking space for every 3,000 square feet of floor area. Based on the City's bicycle parking requirements and defining "floor area" as 85 percent of the "total gross floor area" of the building, the project would be required to provide a total of 14 bicycle parking spaces to serve the proposed project.

Of the required bicycle parking, City standards require that 80 percent be short-term bicycle spaces and 20 percent be secured long-term bicycle spaces. Based on this break down, the project must provide a total of 12 short-term and two long-term bicycle parking spaces.

The proposed project includes four bicycle lockers and six bicycle racks provided next to the Jackson Avenue pedestrian entrance. An additional eight bicycle racks (four next to each building) are included in the outdoor patio area. In total, the project proposes to provide 18 bicycle parking spaces (four long-term and 14 short-term) exceeding the City bicycle requirements by four bicycle parking spaces.

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*

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 3000 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.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

The project site is not located near local water bodies and has been excavated to approximately four feet throughout the site. Therefore, the presence of resources is not expected to be encountered on site.

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:				
1) 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)?	☐	☐	☐	☒
2) 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.	☐	☐	☐	☒

Impact TCR-1: 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. The City has provided notice of the proposed project to culturally-affiliated tribes on September 6, 2022. No requests for consultation were received within 30 days of the notice. The City met with Tamien Nation representatives on October 13th as part of a routine check-in. Tamien Nation representatives requested that cultural sensitivity training be required for all construction personnel prior to ground-disturbing activities in the event of accidental finds. This has been included as a Condition of Approval for the Project.

Condition of Approval

Cultural Sensitivity Training: Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commissions 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. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

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.

Impact TCR-2:	**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 2016.

Assembly Bill 1826

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 of 50 percent reduction in organic waste disposed by the year 2020.

Assembly Bill 341

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

Senate Bill 1383

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

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

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

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition debris; or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San Jose-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants.

City of San José

San José Zero Waste Strategic Plan/Climate Smart San José

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

Envision San José 2040 General Plan

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

General Plan Policies - Utilities & Service Systems	
Water Conservation and Quality Policies	
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 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 non-residential and residential uses.
Responsible Management of Water Supply Policies	
MS-17.1	Manage the limited water supply in an environmentally, fiscally, and economically sustainable manner, by working with local, regional and statewide agencies to establish policies that promote water use efficiency programs, including recycled water programs to support the expanded use of recycled water within San José and neighboring jurisdictions.
Water Conservation Policies	

General Plan Policies - Utilities & Service Systems	
MS-18.5	Reduce per capita water consumption by 25 percent by 2040 from a baseline established using the 2010 Urban Water Management Plans of water retailers in San José.
MS-18.6	Achieve by 2040, 50 million gallons per day of water conservation savings in San José, by reducing water use and increasing water use efficiency.
Water Recycling Policies	
MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply.
MS-19.3	Expand the use of recycled water to benefit the community and the environment.
MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
Water Resources	
ER-9.3	Utilize water resources in a manner that does not deplete the supply of surface or groundwater or cause overdrafting of the underground water basin.
ER-9.5	Protect groundwater recharge areas, particularly creeks and riparian corridors.
General Provision of Infrastructure Policies	
IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.
IN-1.6	Ensure that public facilities and infrastructure are designed and constructed to meet ultimate capacity needs to avoid the need for future upsizing. For facilities subject to incremental upsizing, initial design shall include adequate land area and any other elements not easily expanded in the future. Infrastructure and facility planning should discourage over-sizing of infrastructure which could contribute to growth beyond what was anticipated in the 2040 General Plan.
IN-1.7	Implement financing strategies, including assessment of fees and establishment of financing mechanisms, to construct and maintain needed infrastructure that maintains established service levels and mitigates development impacts to these systems (e.g., pay capital costs associated with existing infrastructure that has inadequate capacity to serve new development and contribute toward operations and maintenance costs for upgraded infrastructure facilities).
Water Supply, Sanitary Sewer, and Storm Drainage Policies	
IN-3.1	Achieve minimum level of services: • For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. • For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm

General Plan Policies - Utilities & Service Systems	
	design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements.
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-3.4	Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City.
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-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Wastewater Treatment and Water Reclamation Policies	
IN-4.1	Monitor and regulate growth so that the cumulative wastewater treatment demand of all development can be accommodated by San José's share of the treatment capacity at the San José/Santa Clara Regional Wastewater Facility.
IN-4.2	Maintain adequate operational capacity for wastewater treatment and water reclamation facilities to accommodate the City's economic and population growth.
IN-4.3	Adopt and implement new technologies for the operation of wastewater treatment and water reclamation facilities to achieve greater safety, energy efficiency and environmental benefit.

General Plan Policies - Utilities & Service Systems	
IN-4.4	Maintain and operate wastewater treatment and water reclamation facilities in compliance with all applicable local, State and federal clean water, clean air, and health and safety regulatory requirements.
IN-4.6	Encourage water conservation and other programs which result in reduced demand for wastewater treatment capacity.
Solid Waste – Materials Recovery/Landfill Policies	
IN-5.1	Monitor the continued availability of long-term collection, transfer, recycling and disposal capacity to ensure adequate solid waste capacity. Periodically assess infrastructure needs to support the City's waste diversion goals. Work with private Material Recovery Facilities (MRF) and Landfill operators to provide facility capacity to implement new City programs to expand recycling, composting and other waste processing.
IN-5.3	Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals.
IN-5.4	Support the expansion of infrastructure to provide increased capacity for Materials Recovery Facilities (MRF)/transfer, composting, and Construction and Demolition materials processing (C&D) at privately operated facilities and on lands under City control to provide increased long-term flexibility and certainty.
IN-5.13	Designate no new candidate landfill sites until the need for additional landfill capacity has been established. Source reduction, recycling/composting alternatives, and waste conversion should be taken into account when evaluating the need for a landfill.
IN-5.15	Expand the capacity of existing landfill sites as the preferred method for increasing the City's landfill capacity and monitor the continued availability of recycling, resource recovery and composting capacity to ensure adequate long term capacity.
Development Fees, Taxes, and Improvement Requirements Policies	

General Plan Policies - Utilities & Service Systems	
IP-15.2	To finance the construction and improvement of facilities and infrastructure systems for which the demand for capacity cannot be attributed to a particular development, consider a series of taxes or fees through which new growth collectively finances those facilities and systems, as follows: 1. Construction Tax and the Conveyance Tax (the latter paid in connection with any transfer of real property, not just new development) provide revenue for parks, libraries, library book stock, fire stations, maintenance yards and communications equipment. 2. The Building and Structures Tax and Commercial/Residential/Mobilehome Park Tax provide revenue for the construction of San José's major street network. 3. Connection Fees provide revenue for the construction of storm sewers, sanitary sewers and expansions of sewage treatment capacity at the Water Pollution Control Plant. 4. Fees and taxes may need to be adjusted from time to time to reflect changing costs and new requirements. Additionally, new fees or taxes may need to be imposed to finance other capital and facility needs generated by growth. 5. Where possible, if a developer constructs facilities or infrastructure for which these taxes are imposed, the developer may be provided with corresponding credits against the applicable taxes or fees.
Environmental Leadership/Stewardship Policies	
IP-17.1[58]	Use San José's adopted Green Vision as a tool to advance the 2040 General Plan Vision for Environmental Leadership. San José's Green Vision is a comprehensive fifteen-year plan to create jobs, preserve the environment, and improve quality of life for our community, demonstrating that the goals of economic growth, environmental stewardship and fiscal sustainability are inextricably linked. Adopted in 2007, San José's Green Vision, adopted in 2007, establishes the following Environmental Leadership goals for the City through 2022: 5. Divert 100 percent of the waste from our landfill and convert waste to energy; Although the City has one of the highest waste diversion rates of any large city in the nation, many waste reduction opportunities remain. If San José and other local cities achieve no further waste reduction efforts over the next 15 years, solid waste landfill space in the region could reach capacity.

4.19.1.2 *Existing Conditions*

Water Supply

Water service is provided to the City of San José by three water retailers, San José Water (SJW), the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by SJW. The service area of SJW is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of

[58] Policy IP-17.1, as shown, is modified in this list to reflect only those items relevant to the discussion of solid waste.

Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water.

The project site is vacant and does not currently use potable or recycled water. The existing infrastructure located in Berryessa Road and Pepper Road is an eight-inch ductile iron cement lined water line.

Wastewater

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 Department of Environmental Services. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents. 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. 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).

The project site is currently vacant and does not currently require wastewater disposal. The existing infrastructure is an eight-inch sanitary sewer pipe in Jackson Avenue.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The site is 100 percent pervious and stormwater permeates into the soil. Existing utilities consist of a 30-inch storm drain line located in Berryessa Road, an 18-inch stormwater pipe in Pepper Road, and a 15-inch stormwater pipe is in Jackson Avenue. Storm drain inlets are located at the corner of Berryessa Road and Pepper Road and the corner of Berryessa Road and Jackson Avenue.

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. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. 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.[59]

All 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 for as long as the landfill is open. The estimated closure date for NISL is 2041.[60] The City has an annual disposal

[59] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.
[60] North, Daniel. General Manager, Republic Services. Personal communications. November 14, 2019.

allocation for 395,000 tons per year. As of December 2019, NISL had approximately 14.6 million cubic yards of capacity remaining.[61]

Solid waste disposal at the project site is provided by Garden City Sanitation. The project site is currently vacant and does not generate solid waste.

4.19.2 Impact Discussion

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
1) 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?	☐	☐	☒	☐
2) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
3) 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?	☐	☐	☒	☐
4) 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?	☐	☐	☒	☐
5) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact UTL-1:	**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?**

[61] Ibid.

Water

The project would construct a commercial development on an existing vacant lot which does not currently use water utilities. The General Plan concludes that, new or expanded entitlements for water supplies would not be required to serve future development under the proposed General Plan conditions which include policies and regulations for water conservation. The proposed General Plan also includes policies that only allow new development to occur when adequate water supply and facilities exist to serve that development. The proposed project is consistent with the development assumed in the General Plan; therefore, the proposed project would not create a substantial increase in water demand which would result in the construction of new or expanded water facilities.

Wastewater

The project would construct a commercial development on an existing vacant lot which does not currently use wastewater utilities.

General Plan Policy IP-15.1 requires new development to construct and dedicate to the City all public improvements directly attributable to the site. This includes sewer extensions and sewer laterals. In the implementation of sanitary sewers, the development is required to finance improvements to nearby intersections or downstream sewer mains in which capacity would be exceeded, and dedicate land, pay an in-lieu fee or finance improvements for parks and recreation needs which would result from the development.

The project would create a demand for wastewater treatment that would increase the processing needs of the Facility. According to the General Plan, development included in the General Plan would not exceed the processing capabilities of wastewater facilities due to policies, existing regulations, and local programs included in the General Plan. Development of the project site is included as a commercial land use in the General Plan; therefore, the project would not result in a need for relocation of construction of new or expanded wastewater processing facilities.

Stormwater Drainage

As stated in Section 3.8 Hydrology and Water Quality, the project would include treatment control measures and capture and treat stormwater on-site. The proposed project would not result in a relocation or construction of new or expanded stormwater infrastructure to support the project because the site would not result in increased stormwater flows by controlling runoff on-site.

Electric Power, Natural Gas, and Telecommunications Facilities

The General Plan has identified that electrical and natural gas resources may need to be expanded to serve the new, additional utility uses. The additional needs generated by the commercial development would not be substantial, however, the increase could require additional facilities to be created to serve the development. The General Plan states that the City has provided information to Pacific Gas and Electric and will coordinate with their Service Planning and Distribution Planning Departments on utility needs. Therefore, the proposed project would not require the construction of new or expanded facilities and would result in a less than significant environmental impact.

Telecommunications services are provided by private companies in the project area. The project would create commercial buildings which would require connections for telecommunication services. The project site is surrounded by properties currently serviced by existing connections and the project would not substantially increase the demand for these services. **(Less than Significant Impact)**

Impact UTL-2:	**Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?**

The General Plan states that new or expanded entitlements for water supplies would not be required to serve future development under build out of the General Plan with implementation of policies and regulations for water conservation. The project is included in the development assumptions of the General Plan and, therefore, there would be sufficient water supplies available to serve the project. The project would have a less than significant impact on water supply. **(Less than Significant Impact)**

Impact UTL-3:	**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?**

The proposed project would be consistent with planned growth from build out of the San José 2040 General Plan. Development allowed under the 2040 General Plan would not exceed the City's allocated capacity at the Facility; therefore, implementation of the project would have adequate capacity to serve the project's projected demand in addition to the Facility's existing commitments. **(Less than Significant Impact)**

Impact UTL-4:	**Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?**

The project site is currently vacant and does not generate solid waste. The proposed project would add 47,000 square feet of commercial retail space to the project site and would produce approximately 235 pounds of waste per day. [62] The proposed project is consistent with the General Plan land use for the project site and would, therefore, be consistent with the waste generation expected for full build out of the General Plan. The proposed project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. **(Less than Significant Impact)**

[62] Calrecycle. Commercial Sector Generation Rates. Accessed April 13, 2022. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates. (Commercial Rate 5lb/day/1000sqft)

Impact UTL-5:	Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

Consistent with CALGreen requirements, the proposed project would be required to provide on-site recycling facilities, develop a construction waste management plan, and implement other waste reduction measures. Additionally, the estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan/Climate Smart San Jose. 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)**

4.20 WILDFIRE

4.20.1 Environmental Setting

4.20.1.1 *Existing Conditions*

The project site is located in an urbanized area is not located in a Fire Hazard Severity Zone according to Cal Fire, Fire Risk Assessment Program maps.[63]

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:				
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
2) 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?	☐	☐	☐	☒
3) 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?	☐	☐	☐	☒
4) 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)**

[63] Cal Fire. Fire Hazard Severity Zone Viewer. Accessed April 13, 2022. https://egis.fire.ca.gov/FHSZ/.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
1) 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?	☐	☐	☒	☐
2) 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.)	☐	☐	☒	☐
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Impact MFS-1:	**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?**

The proposed project would develop an existing vacant site and, as stated in the sections above, the project would not result in impacts on the habitats of protected fish or wildlife species. Additionally, the project would not affect species in a manner that would drop their populations below self-sustaining levels. The project site is located in a fully urbanized area and would not affect native plant and animal communities to the extent that these communities would be eliminated. The proposed project is not located in an area that provides habitat to endangered species and would not have impacts on these species. The proposed project would implement mitigation to reduce impacts on bird species located in trees near the project site.

In Section 4.5 of this document, the project was analyzed for impacts on historic and prehistoric resources. This analysis found that the proposed project would not impact the historic integrity of

historic resources because there are no historic resources near the project site. **(Less than Significant Impact)**

Impact MFS-2:	**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 analysis found that the proposed project would have no impact on agricultural and forestry resources, mineral resources, and wildfires. The analysis also determined that the project would have a less than significant impact on aesthetics, cultural resources, energy, geology and soils, GHGs, hazards and hazardous materials, hydrology and water quality, land use, population and housing, public services, recreation, transportation, tribal cultural resources, and utilities. Because the project would have no significant project level impact on these resources, the project would not have a cumulative impact to these resources.

The proposed project would contribute to emissions of particulate matter during construction which has the potential to affect surrounding populations. The proposed project would implement mitigation measures to reduce these impacts to less than significant. As a result, the proposed project would not cumulatively contribute to air quality impacts in the surrounding area. Additionally, the proposed project could impact nesting birds, similar to other nearby projects in the City of San José. Mitigation measures were included to reduce nest disturbance to less than significant. As a result, the project would not have a cumulatively considerable impact on biological resources. The project also has impacts resulting from construction vibration which would be mitigated through construction protection measures to a less than significant impact. The vibratory impacts would also be localized to the site and would not contribute to a cumulatively considerable impact. **(Less than Significant Impact)**

Impact MFS-3:	**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:

ABAG, Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region. 2017.

Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://projectmapper.planbayarea.org/.

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

Cal Fire. Fire Hazard Severity Zone Viewer. Accessed April 13, 2022. https://egis.fire.ca.gov/FHSZ/.

CalEPA. "Cortese List Data Resources." Accessed April 11, 2022. https://calepa.ca.gov/sitecleanup/corteselist.

California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed April 8, 2022. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

California Air Resources Board. "The Advanced Clean Cars Program." April 8, 2022. https://ww2.arb.ca.gov/our-work/programs/advanced-clean-cars-program.

California Building Standards Commission. "California Building Standards Code." Accessed April 8, 2022. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.

California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 8, 2022. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.

California Department of Conservation. "Williamson Act." Accessed April 8, 2022. http://www.conservation.ca.gov/dlrp/lca.

California Department of Conservation. California Important Farmland Finder. Accessed April 8, 2022. https://maps.conservation.ca.gov/DLRP/CIFF/.

California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 8, 2022. http://frap.fire.ca.gov/.

California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 11, 2022. http://hcd.ca.gov/community-development/housing-element/index.shtml.

California Department of Tax and Fee Administration. “Net Taxable Gasoline Gallons.” Accessed April 8, 2022. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.

California Department of Transportation. ”Scenic Highways.” Accessed March 10, 2022. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

California Energy Commission (CEC). “2022 Building Energy Efficiency Standards.” Accessed April 8, 2022. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency.

California Energy Commission. “Natural Gas Consumption by County.” Accessed April 8, 2022. http://ecdms.energy.ca.gov/gasbycounty.aspx.

California Energy Commission. Energy Consumption Data Management System. “Electricity Consumption by County.” Accessed April 8, 2022. http://ecdms.energy.ca.gov/elecbycounty.aspx.

California Gas and Electric Utilities. 2019 California Gas Report. Accessed April 8, 2022. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

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

Calrecycle. Commercial Sector Generation Rates. Accessed April 13, 2022. https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates.

City of San José. “Annual Report on City Services 2020-21”. Accessed April 11, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/80634/637800044609900000.

City of San José. Envision 2040 General Plan FEIR. June 2011.

City of San José. Envision General Plan 2040. November 1, 2011.

City of San José. GIS viewer. Accessed April 8, 2022.

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.

FEMA. FEMA FIRM Map No. 06085C0088J. Accessed April 11, 2022.

Hexagon Transportation Consultants. Berryessa Plaza Commercial Center Transportation Analysis. May 2022.

Illingworth and Rodkin, Berryessa Plaza Air Quality & Greenhouse Gas Emissions Assessment, January 27, 2021.

Illingworth & Rodkin, Inc. Berryessa Plaza Noise and Vibration Report, August 2020.

Krazan & Associates, Inc. Phase I Environmental Site Assessment. October 28, 2020.

Natural Resources Conservation Service. Physical Soil Properties---Santa Clara Area, California, Western Part. Accessed March 31, 2022.

Natural Resources Conservation Service. Web Soil Survey. Accessed April 8, 2022.

Natural Resources Conservation Service. Web Soil Survey. Accessed March, 31, 2022. https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm.

North, Daniel. General Manager, Republic Services. Personal communications. November 14, 2019.

Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed March 10,2022. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

Public Law 110–140—December 19, 2007. Energy Independence & Security Act of 2007. Accessed April 8, 2022. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

Santa Clara County. Five-Year CIWMP/RAIWMP Review Report. June 2016.

Santa Clara Valley Habitat Agency. Final Santa Clara Valley Habitat Plan. August 2012.

Santa Clara Valley Habitat Agency. Habitat Agency Geobrowser. Accessed April 8, 2022. http://www.hcpmaps.com/habitat/.

State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2019. Sacramento, California, May 2019.

UC Davis. Linear Extensibility and Shrink Swell Capability. Accessed March 31, 2022. https://casoilresource.lawr.ucdavis.edu/gmap/help/defn-linear-extensibility.html.

United States Department of Energy. Energy Independence & Security Act of 2007. Accessed April 8, 2022. http://www.afdc.energy.gov/laws/eisa.

United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." April 8, 2022. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed April 8, 2022. https://www.eia.gov/state/?sid=CA#tabs-2.

United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

USGS. Thomas L. Holzer, Thomas E. Noce, and Michael J. Bennett. Liquefaction probability for M7.8 San Andreas Fault earthquake scenario, Santa Clara County, CA.

USGS. United States Quaternary Faults. Accessed April 8, 2022. https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building and Code Enforcement

6.2 CONSULTANTS

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