

Draft Environmental Impact Report

1530-1536 West San Carlos Mixed-Use Project

State Clearinghouse No: 2019120341

File No: SP20-004

Prepared by the



In Consultation with



January 2021

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SUMMARY

The project proposes construction of 173 residential units and 17,836 square feet of commercial use on an approximately 1.73-acre site that is currently developed with eight single-family residences, three commercial buildings and associated ancillary buildings, and surface parking.

The following is a summary of the significant impacts and mitigation measures addressed within this EIR. The project description and full discussion of impacts and mitigation measures can be found in *Section 2.0 Project Information and Description* and *Section 3.0 Environmental Setting, Impacts, & Mitigation*

Significant Impacts	Mitigation Measures
Air Quality	
<p>Impact AQ-1: Construction activities associated with the proposed project would expose the maximally exposed individuals near the project site to cancer risk and PM10 exhaust in excess of BAAQMD thresholds.</p> <p>Less than Significant Impact with Mitigation Incorporated</p>	<p>MM AQ-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. 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 in these mitigation measures. Feasible methods to achieve this reduction would include the following:</p> <ol style="list-style-type: none">1. All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 interim engines or equivalent.2. Provide electric power to avoid use of diesel-powered generator sets and other portable equipment.3. Alternatively, equipment that meets U.S. EPA Tier 3 engines standards for particulate matter that include CARB-certified Level 3 Diesel Particulate Filters¹ or use of equipment that is

¹ See <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>.

	electrically powered or uses non-diesel fuels would meet this requirement.
<p>Impact AQ(C)-1: The maximum cancer risk and annual PM₁₀ concentration would exceed the BAAQMD threshold for cumulative sources.</p> <p>Less than Significant Cumulative Impact with Mitigation Incorporated</p>	See mitigation measure MM AQ-1.1 above.
Biological Resources	
<p>Impact BIO-1: Project construction could impact nesting birds on or adjacent to the site, if present.</p> <p>Less than Significant Impact with Mitigation Incorporated)</p>	<p>MM BIO-1.1: <u>Avoidance</u>. The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.</p> <p>MM BIO-1.2: <u>Nesting bird surveys</u>. If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.</p> <p>MM BIO-1.3: <u>Buffer zones</u>. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established</p>

	<p>around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.</p> <p>MM BIO-1.4: <u>Reporting</u>. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or building permits.</p>
Cultural Resources	
<p>Impact CUL-1: Implementation of the proposed project would result in the demolition of the Craftsman style house and the seven Spanish-style bungalows on-site that are eligible candidate City Landmarks.</p> <p>Significant Unavoidable Impact with Mitigation Incorporated</p>	<p>MM CUL-1.1: The project applicant shall implement the following prior to issuance of any demolition permits for the Craftsman style house and seven Spanish Revival style bungalow units on-site.</p> <p><u>Documentation:</u> The structures shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:</p> <ol style="list-style-type: none"> 1. Drawings – Prepare sketch floor plans. 2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. 3. Written Data – HABS written documentation in short form.

	<p>This documentation shall be prepared by a professional historic resources consultant who meets the Secretary of Interior's Professional Qualifications Standards. The report shall be deposited with History San José and a copy provided to the City's Planning Division as well as filed with the Northwest Information Center, Sonoma State University.</p> <p><u>Relocation by a Third Party:</u> The structures shall be advertised for relocation by a third party. The project applicant shall advertise the availability of the structure for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site and must be reviewed by the City's Historic Preservation Officer or Environmental Review Supervising Planner prior to circulation. The project applicant shall provide evidence to City staff that this condition has been met prior to the issuance of any demolition permits.</p> <p>If a third party does agree to relocate one or more of the structures the following measures must be followed:</p> <ol style="list-style-type: none"> 1. The City's Director of Planning, Building and Code Enforcement, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site(s) are suitable for the building(s). 2. Prior to relocation, a historic preservation architect and a structural engineer shall undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the buildings prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic
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	<p>significance and must be protected and preserved. The documentation shall be reviewed and approved by the City of San José prior to the structures being moved. Documentation already completed will be used to the extent possible to avoid repetition in work.</p> <ol style="list-style-type: none"> 3. To protect the buildings during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer will also be engaged to determine if the buildings need to be reinforced/stabilized before the move. 4. The project applicant shall offer financial assistance for the relocation that is equal to a reasonable cost of demolition of the structure(s). 5. Once moved, the building shall be repaired and restored, as needed, in conformance with the <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i>. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features. <p>Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i> and that all character-defining features were preserved and submit a memo report to the Director of Planning, Building and Code Enforcement or Director's designee.</p> <p><u>Salvage:</u> If no third party relocates the structure(s), the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City of San José</p>
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	Department of Planning, Building and Code Enforcement. The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or Director's designee that this condition has been met prior to the issuance of demolition permits.
<p>Impact CUL(C)-1: Implementation of the proposed project would result in a cumulatively considerable contribution to a significant cultural resources impact to the remaining Craftsman style houses and bungalow courts in the City.</p> <p>Significant Unavoidable Cumulative Impact with Mitigation Incorporated</p>	See mitigation measure MM CUL-1.1 above.
Hazards and Hazardous Materials	
<p>Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials during earthwork activities.</p> <p>Less than Significant Impact with Mitigation Incorporated</p>	<p>MM HAZ-1.1: Prior to commencement of earthwork activities, the project applicant shall hire a qualified professional to develop a Site Management Plan that includes:</p> <ul style="list-style-type: none"> • Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs • Proper disposal procedures of contaminated materials • Monitoring, reporting, and regulatory oversight notifications • A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection • The health and safety plan will also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction. <p>The Site Management Plan will be submitted to the Director of Planning, Building and Code</p>

	<p>Enforcement or Director's designee and the City's Municipal Environmental Compliance Officer of the Department of Environmental Services.</p> <p>If any contamination is encountered above appropriate regulatory screening levels, then the applicant will notify the Santa Clara County Department of Environmental Health and enter into the County Site Cleanup Program. Removal of USTs and additional sampling/analysis will be completed under County Oversight. Evidence of County oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Municipal Environmental Compliance Officer.</p>
Noise	
<p>Impact NOI-1: Project construction would generate vibration levels in exceedance of 0.2 in/sec PPV at buildings of normal conventional construction located within 30 feet of the project site.</p> <p>Less than Significant Impact with Mitigation Incorporated</p>	<p>MM NOI-1.1: <u>Equipment Selection</u>. Prior to issuance of any demolition or grading permits, the project applicant shall implement the following controls to reduce vibration impacts from construction activities:</p> <ul style="list-style-type: none"> • Prohibit impact or vibratory pile driving. Drilled piles or mat slab foundations cause lower vibration levels where geological conditions permit their use. • A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. • Place operating equipment on the construction site at least 30 feet from vibration-sensitive receptors.

	<ul style="list-style-type: none"> • Use the smallest equipment available to complete the task and minimize vibration levels as low as feasible. • Avoid using vibratory rollers and tampers near sensitive areas. • Select demolition methods not involving impact tools. • Modify/design or identify alternative construction methods to reduce vibration levels below the limits. • Avoid dropping heavy objects or materials. <p>MM NOI-1.2: <u>Vibration monitoring plan.</u> Prior to issuance of demolition or grading permits, the project applicant shall implement the following controls to identify and monitor construction vibration:</p> <ul style="list-style-type: none"> • Implement a construction vibration monitoring plan to document condition of conventional properties within 30 feet of the project site 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 construction vibration monitoring plan shall be implemented to include the following tasks: <ul style="list-style-type: none"> – Identification of sensitivity to ground-borne vibration of the property. A vibration survey (generally described below) shall be performed. – Performance of a photo survey, elevation survey, and crack monitoring survey for the structures within 30 feet of the
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	<p>site. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure.</p> <ul style="list-style-type: none"> - Development of a vibration monitoring and construction contingency plan to identify where monitoring shall be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Construction contingencies, such as alternative construction methods and equipment, or securing the structure, shall be identified for when vibration levels approach the limits. - If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structure. - Complete a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.
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	<ul style="list-style-type: none"> - The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims. - Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.
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SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the City of San José in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this EIR. The NOP was circulated to local, state, and federal agencies on December 13, 2019. The 40-day comment period² concluded on January 24, 2020. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on January 9, 2020 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held at Buena Vista Midtown (1535 West San Carlos Street). Appendix A of this EIR includes the NOP and comments received on the NOP.

1.2.2 Draft EIR Public Review and Comment Period

Publication of this Draft EIR will mark the beginning of a 45-day public review period. During this period, the Draft EIR will be available to the public and local, state, and federal agencies for review and comment. Notice of the availability and completion of this Draft EIR will be sent directly to every agency, person, and organization that commented on the NOP, as well as the Office of Planning and Research. Written comments concerning the environmental review contained in this Draft EIR during the 45-day public review period should be sent to:

Maira Blanco
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Maira.Blanco@sanjoseca.gov

² Due to the City's furlough from December 24, 2019 through January 1, 2020, an additional 10 days was added to the standard 30-day comment period.

1.3 FINAL EIR/RESPONSES TO COMMENTS

Following the conclusion of the 45-day public review period, the City of San José will prepare a Final EIR in conformance with CEQA Guidelines Section 15132. The Final EIR will consist of:

Revisions to the Draft EIR text, as necessary;

List of individuals and agencies commenting on the Draft EIR;

Responses to comments received on the Draft EIR, in accordance with CEQA Guidelines (Section 15088);

Copies of letters received on the Draft EIR.

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

1.3.1 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 and available for public inspection 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 15094(g)).

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT LOCATION

The approximately 1.34-acre (58,603 square feet) project site is comprised of three contiguous parcels located at 1530, 1536, and 1544 West San Carlos Street in the City of San José. The project site (Assessor's Parcel Numbers [APNs] 277-18-018, 277-18-019, and 277-18-020) is located on the southeastern corner of West San Carlos Street and Buena Vista Avenue. Regional and vicinity maps of the project site are shown on Figure 2.2-1 and Figure 2.2-2. An aerial photograph with surrounding land uses is shown on Figure 2.2-3. The site is within the West San Carlos Urban Village. The West San Carlos Urban Village boundary is shown on Figure 2.2-4.

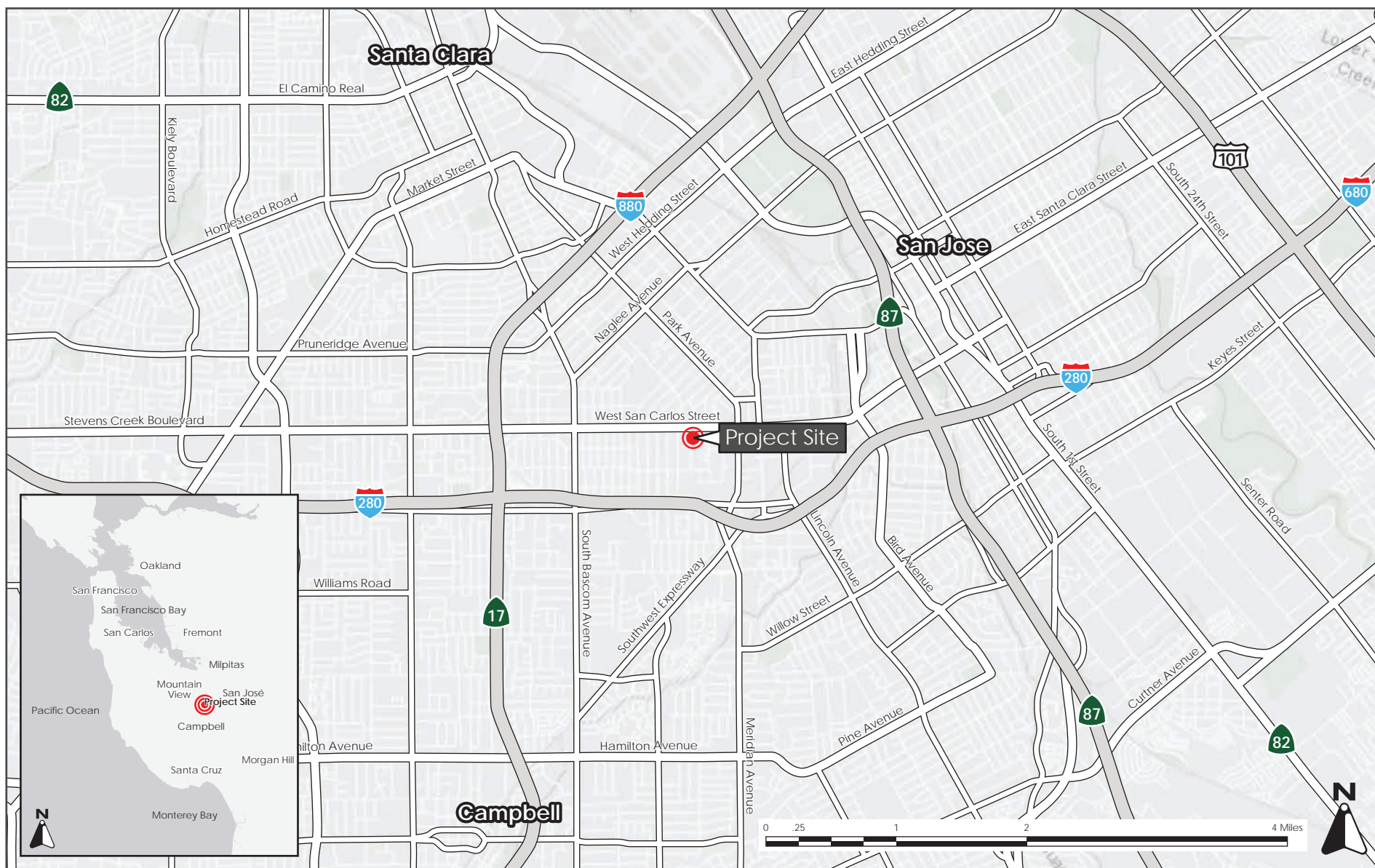
2.2 EXISTING CONDITIONS

The project site is currently developed with three commercial buildings (totaling approximately 7,600 square feet), currently used for automotive businesses, a martial arts studio, and a restaurant, and associated ancillary structures and surface parking. Behind the restaurant building, and separated by a metal rolling gate, are eight single-family residences and three ancillary parking garages in the southern portion of the site. There is a billboard on the eastern property line. The project site currently has two driveways on South Buena Vista Avenue and four driveways on West San Carlos Street. Two of the driveways on West San Carlos Street have limited access due to metal bollards installed along the property line. There are 14 trees on-site and one off-site street tree, all of which would be removed as part of the proposed development.

The project site is zoned Commercial Pedestrian (CP) and Multiple Residence (R-M), and has a land use designation of Urban Village under the Envision San José 2040 General Plan.³ Within the West San Carlos Urban Village Plan, the project site is designated as Urban Village within the Mixed-Use Residential Character Area.⁴ The West San Carlos Urban Village Mixed-Use Residential Character Area boundary is shown on Figure 2.2-5.

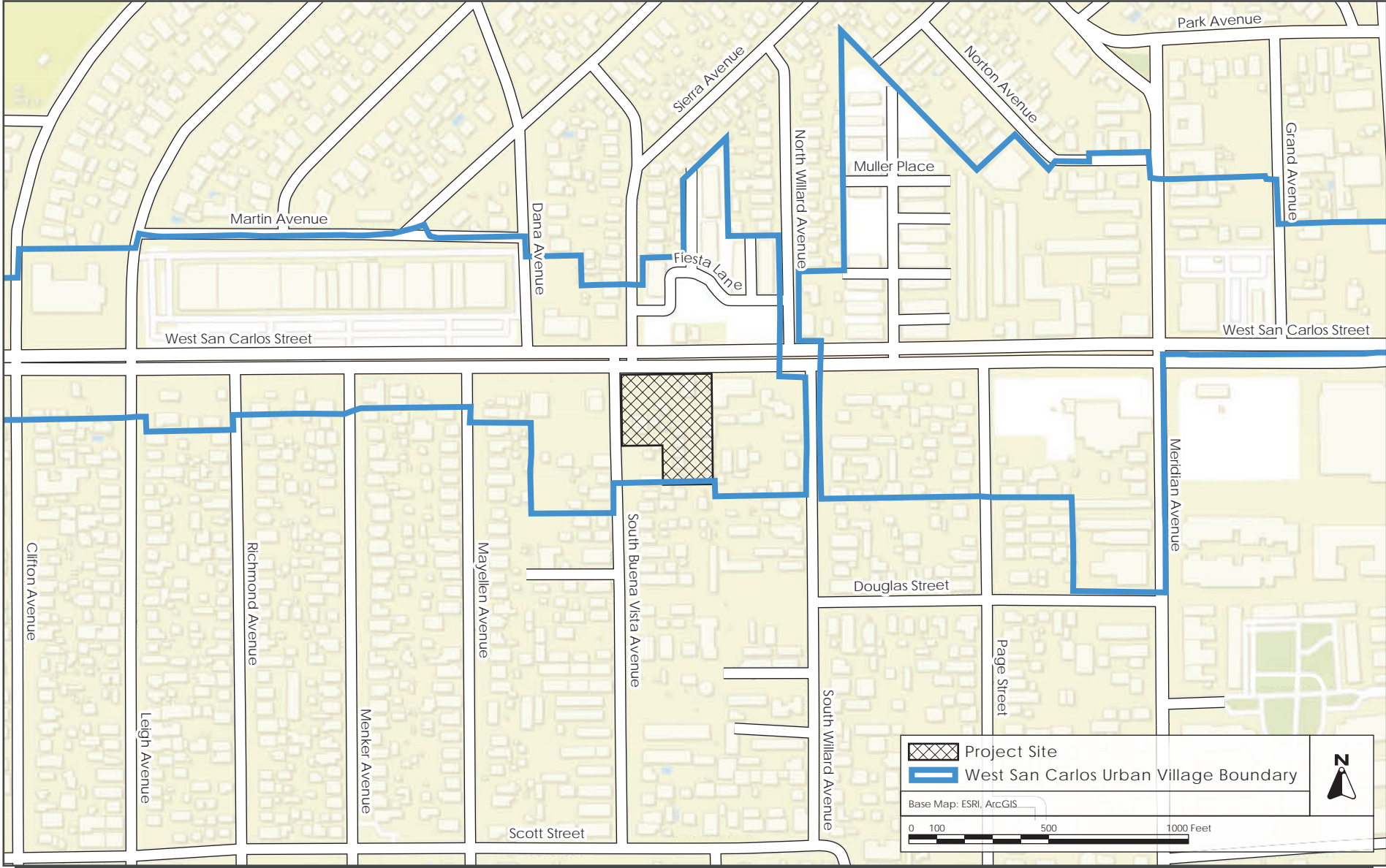
³ “Urban villages” are walkable, bicycle-friendly, transit-oriented, mixed use settings that provide both housing and jobs.

⁴ The Mixed-Use Residential Character Area is an eastern gateway into the Urban Village. The area is envisioned with higher-density mixed-use and residential development drawing energy from nearby Downtown San José and the Diridon Station. Development is proposed to range between three and seven stories with residential uses above a mix of active ground-floor retail. Land uses in this area include Mixed-Use Commercial, Urban Residential, and Urban Village. (Source: City of San José. *West San Carlos Urban Village Plan*. Adopted May 8, 2019. Page 21.)



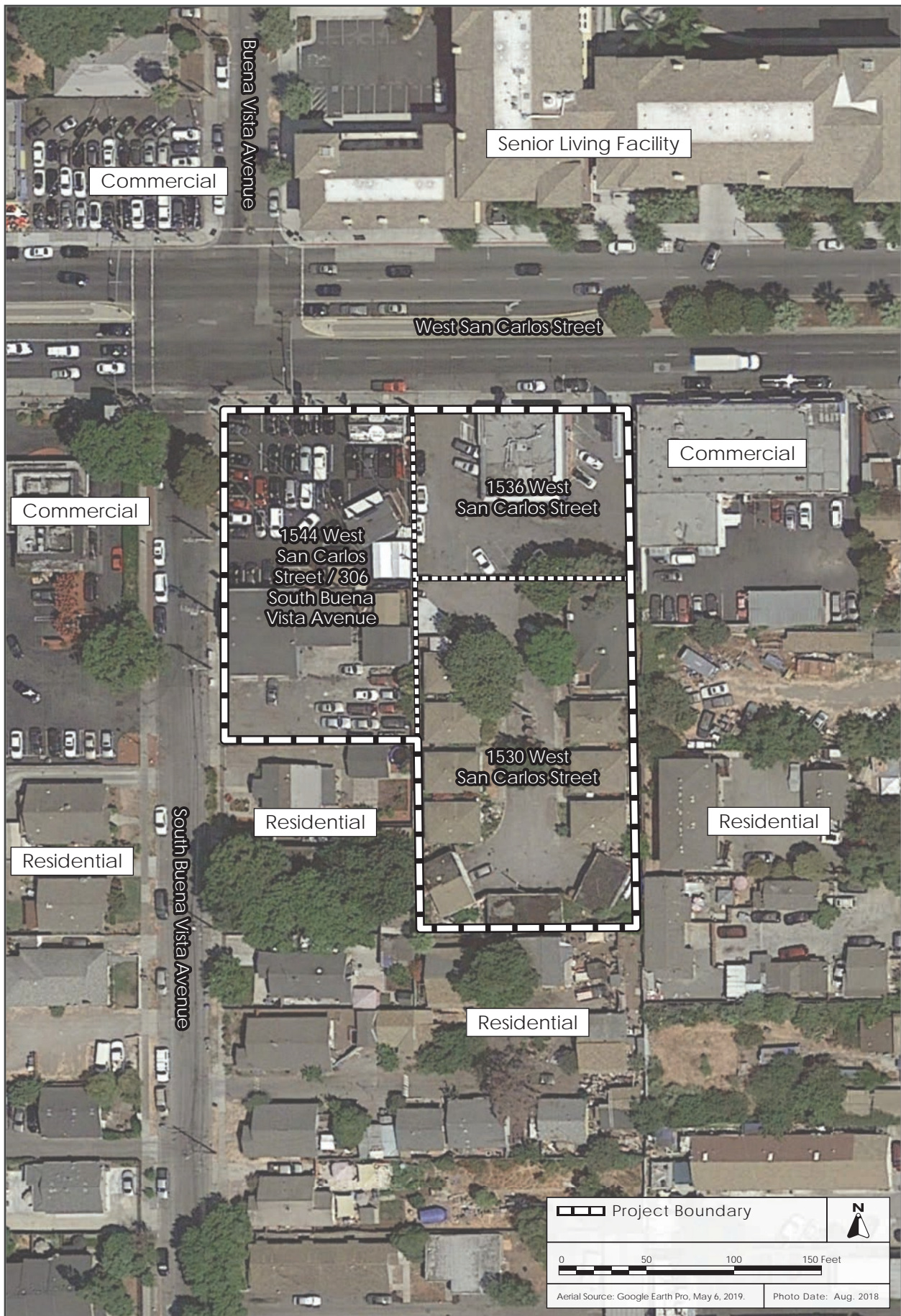
REGIONAL MAP

FIGURE 2.2-1



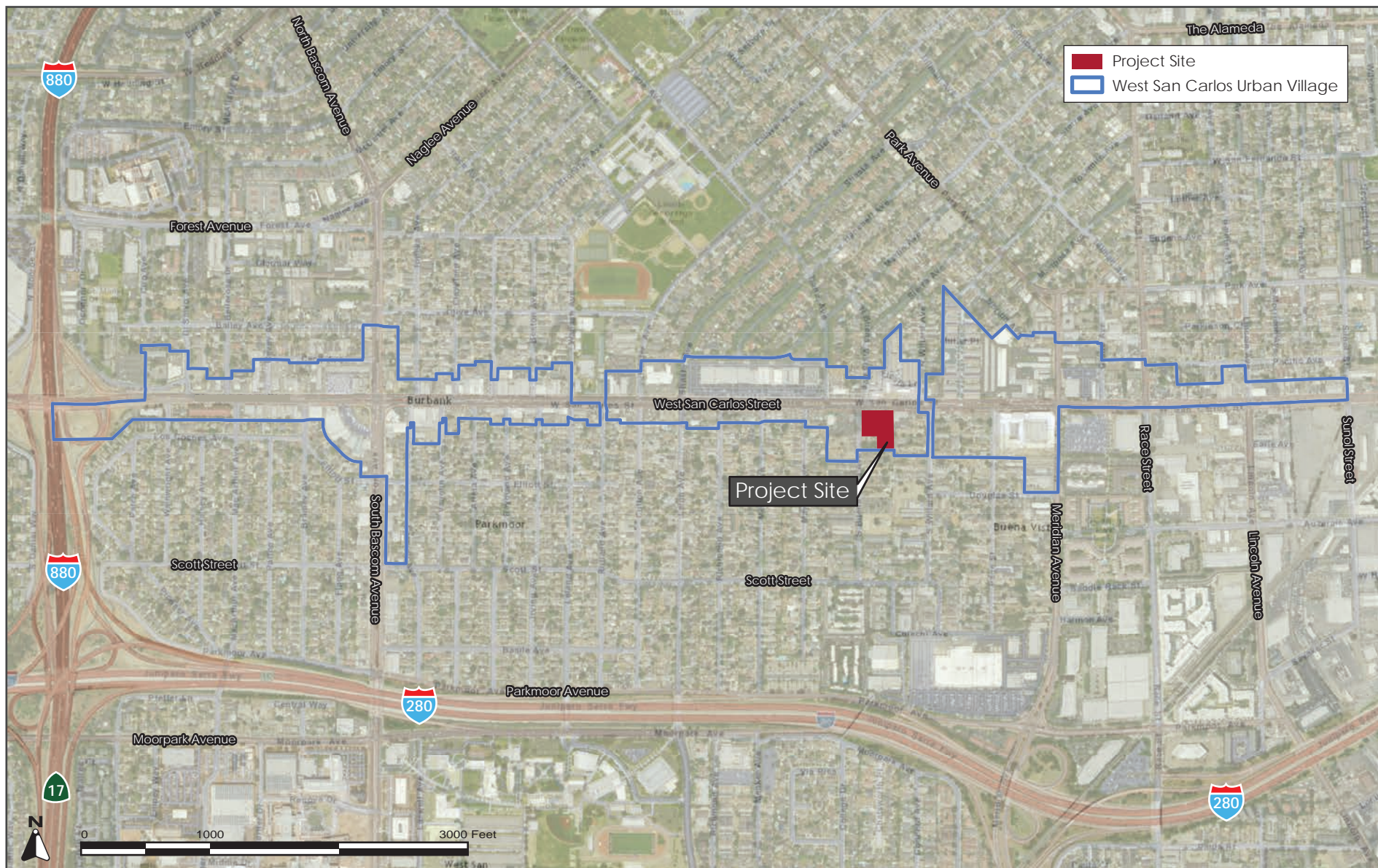
VICINITY MAP

FIGURE 2.2-2



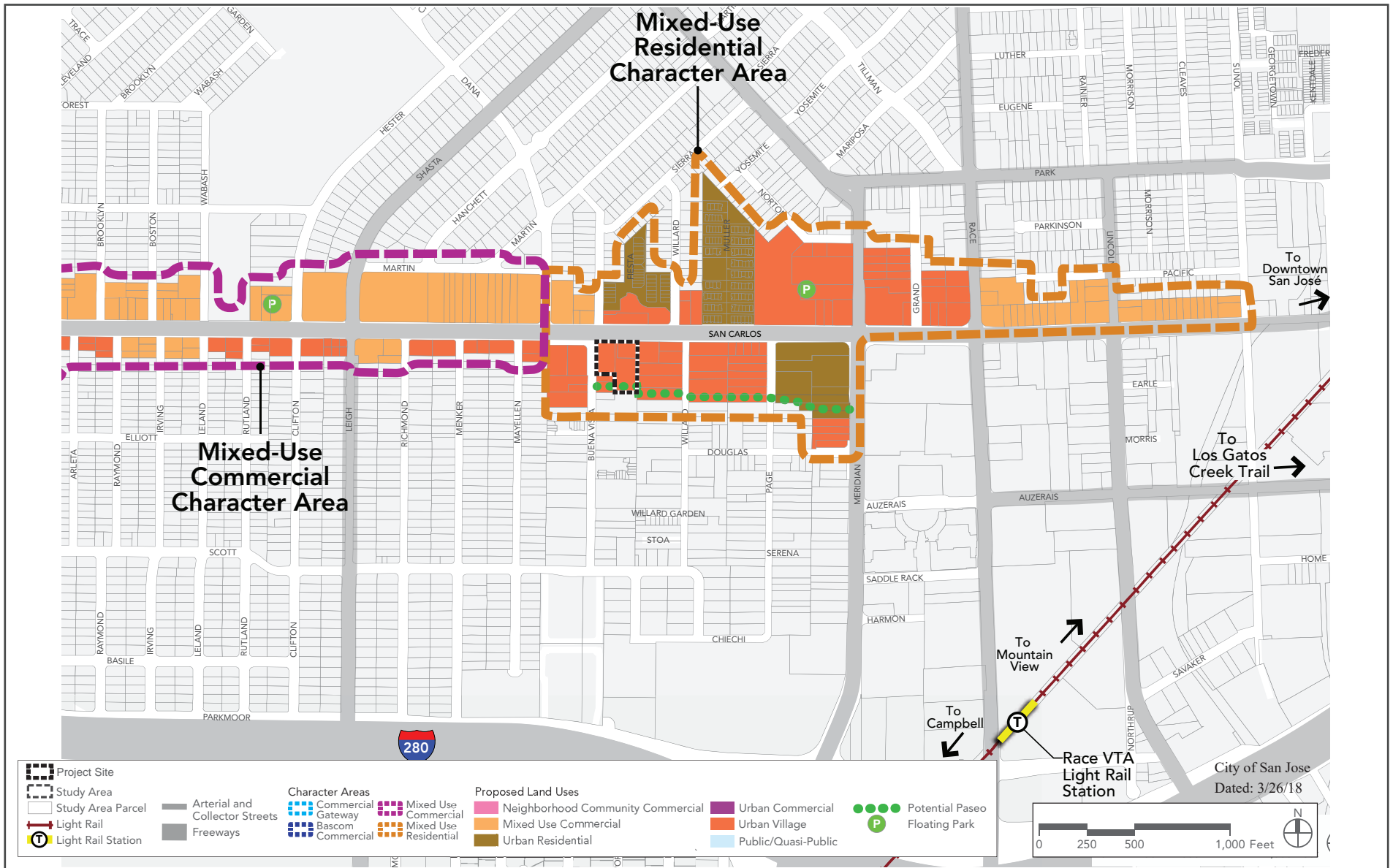
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.2-3



WEST SAN CARLOS URBAN VILLAGE BOUNDARY

FIGURE 2.2-4



WEST SAN CARLOS URBAN VILLAGE MIXED-USE RESIDENTIAL CHARACTER AREA

FIGURE 2.2-5

2.3 PROJECT DESCRIPTION OVERVIEW

The applicant requests approval of a Special Use Permit to develop two seven-story buildings with six levels of residential units over two-levels of parking (one below-grade and one at-grade) on-site. Building 1 (on the east side of the site) would include up to 103 residential units and 11,387 square feet of commercial space on the ground level and second floor. Building 2 would include up to 70 residential units and 6,449 square feet of commercial space on the ground level and second floor. The project would have a density of approximately 129 du/ac and a FAR of 0.30.⁵ The maximum height of the buildings would be 82 feet to the roofline and 92 feet to the highest point of architectural element (stairs). Building 1 would be set back a minimum of 30 feet from the southern property line (floors one through four), and floors five through seven would further step back from the southern property line with a total distance of approximately 59 feet. Building 2 would be setback approximately 15 feet from the southern property line.⁶ The site plan and building elevations are shown on Figure 2.3-2 and Figure 2.3-2.

2.3.1 Residential Apartments

As noted above, the project proposes to construct up to 103 apartment units in Building 1 and up to 70 apartment units in Building 2, for a total of 173 units. Both buildings would include units on the second through seventh floors, and a lobby, mailroom, elevators and stairs on the ground floor.

Communal outdoor open space for the residents would be provided on the third and fifth floors of Building 1 and on the third and seventh floors of Building 2. The third floor of Building 1 would contain two courtyards totaling approximately 3,412 square feet on the western side of the building. The fifth floor of Building 1 would contain an approximately 3,129-square foot terrace on the southern end of the building. The third floor of Building 2 would contain an approximately 2,535 square feet courtyard on the east side of the building. The seventh floor would contain two terraces on the east side of the building totaling approximately 3,742 square feet.

In addition to the communal outdoor open space, indoor amenity space would be provided throughout the buildings. Buildings 1 would contain approximately 5,447 square feet of indoor amenity space and Building 2 would contain approximately 3,965 square feet of indoor amenity space.

The southern portion of the site between Building 1 and the southern property line would include a 30-foot wide, 4,450 square-foot paseo with a walkway that wraps around the building and connects to the proposed driveway and the sidewalk on West San Carlos Street. The southern 15-foot setback area of Building 2 would contain a privately accessible walkway that connects to South Buena Vista Avenue, and the proposed driveway, which would connect to the paseo. The paseo would be accessible to residents only.

⁵ Density: 173 residential units / 1.34 acres (project site) = 129 du/ac

FAR: 17,836 commercial square feet / 58,603 square (project site) = 0.30

⁶ The southern staircase intrudes into the setback area and is approximately eight feet eight inches away from the southern property line.





North Elevation



South Elevation



East Elevation



West Elevation

Source: Studio Current, December 7, 2020.

ELEVATION PLAN

FIGURE 2.3-2

2.3.2 Commercial: Comprised of Retail and Office

Commercial space is proposed in both Buildings 1 and 2. Building 1 would include 11,387 square feet of commercial space. Building 2 would include 6,449 square feet of commercial space.

Commercial space would be located on the ground level and the second floor in the northern portion of both buildings, fronting West San Carlos Street.

2.3.3 Landscaping

The project would remove all trees on-site and one off-site tree as part of the project. New landscaping, including grass lawns and a total of 18 trees, would be planted along the private walkway and paseo on the southern edges of the site. An additional 10 street trees would also be planted along the new sidewalks fronting the project site on West San Carlos Street and South Buena Vista Avenue.

2.3.4 Site Access and Parking

Pedestrian access to the apartments and commercial retail in Building 1 would be provided via separate entrances on the ground floor fronting West San Carlos Street. Sixty-five secure bicycle parking spaces for the residents would be provided in a bicycle room in Building 1 between the commercial area and parking garage. An additional eight bicycle parking spaces would be provided within the ground floor garage.

Pedestrian access to the apartments in Buildings 2 would be provided via a private entrance on the ground floor fronting Buena Vista Street. Pedestrian access to the commercial retail would be provided via West San Carlos Street. No bicycle parking is proposed in Building 2.

Vehicular access to the site would be provided via a 26-foot wide, two-way driveway on West San Carlos Street connecting to the entrance of the parking garages for the two proposed buildings. The driveway would be located between the two buildings. The project proposes a total of 189 vehicle parking spaces in the parking garages. The proposed parking is a 42-percent reduction from what would normally be required (326 spaces required per the Municipal Code). Consistent with the Municipal Code, a 20-percent parking reduction is allowed because the project site is located within an urban village, and the project proposes to provide bicycle parking spaces in conformance with the City's Zoning Code requirements. An additional 22-percent reduction is allowed because the project proposes to implement a Transportation Demand Management (TDM) Program (further described in Section 2.3.5. Green Building Measures and Transportation Demand Management Program).

2.3.5 Green Building Measures and Transportation Demand Management Program

Consistent with the City's Private Sector Green Building Policy, the proposed project would be designed to achieve at least the minimum Leadership in Energy and Environmental Design (LEED) certification by incorporating a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections.

According to the City's Municipal Code, projects located in Urban Villages can propose reductions in the required minimum off-street parking if accompanied by a Transportation Demand

Management (TDM) Program. As noted above, the project proposes a 42-percent parking reduction; therefore, a TDM Program is required for the project to satisfy the City's parking requirements. The draft TDM Plan has been prepared (refer to Appendix I) and the City will approve the final TDM prior to issuance of a certificate of occupancy. The TDM includes at least three of the following measures:

- Online Kiosk with information regarding non-auto transportation alternatives
- 100 percent unbundled parking for all residential spaces.⁷
- Transit Subsidies (e.g., providing VTA SmartPasses)
- Adequate bicycle parking for residential and commercial uses, per the San José Parking Code

2.3.6 Utilities Service Right-of-Way Improvements

The proposed project would require lateral connections to existing utilities (sewer, water, and storm drain) in West San Carlos Street, and in South Buena Vista Avenue (water). Stormwater from Building 1 would be retained and treated in stormwater planters in the courtyard and common open space areas on levels three and five, and in the paseo, or by underground media filtration. Stormwater from Building 2 would be retained and treated in stormwater planters in the courtyard areas on levels three and seven, or by underground media filtration. The project would replace and widen the existing 10-foot sidewalk to 20 feet with landscape strip on the project frontage on West San Carlos Street, and would also replace and widen the existing eight-foot sidewalk to 15 feet with landscape strip on the project frontage on South Buena Vista Avenue.

The project would install a crosswalk along the east leg of West San Carlos Street/South Buena Vista Avenue intersection via a signal modification, and relocate the existing bus stop located at the southwest corner of the intersection to be moved to the southeast corner of the intersection.

2.3.7 Construction

All existing improvements on-site would be removed, including all buildings and the billboard. The project would excavate approximately 25,380 cubic yards of soil (to a maximum depth of 14 feet). Construction of the project would consist of two phases. Demolition and construction of phase one, which would construct Building 1, is estimated to begin in June 2021 and would take approximately 24 months.⁸ Demolition and construction of phase two, which would construct Building 2, would occur subsequently, and would also take approximately 24 months. The total construction period would be approximately 48 months.

⁷ Unbundled parking means separating the cost of parking from residential leases and allowing residents to choose whether or not to lease a parking space.

⁸ The project originally assumed a construction start time of June 2020, which is the year the air quality and GHG analysis relied upon to model emissions. Since the project has progressed, the estimated start time has been updated to June 2021. While it is acknowledged the construction start time is shifted to a later time, the construction start time in the air quality model was kept as is for a more conservative analysis. The air quality/GHG model accounts for cleaner construction equipment and building operational efficiency emissions as the construction and operational years increase, therefore, using the earlier estimated construction and operational start time than the actual later start time is a more conservative analysis. Source: Divine, Casey. Illingworth & Rodkin, Inc. Personal Communication. December 15, 2020.

Construction staging area for Building 1 would be located on the western portion of the site where Building 2 would be constructed. Construction staging area for Building 2 could be located on either a neighboring parcel, or on the street with an encroachment permit.

2.4 PROJECT OBJECTIVES

Project Applicant Objectives

Primary objectives of this project are to comply with the Vision for Growth as set forth by the City of San José in the West San Carlos Urban Village Plan. These objectives include:

1. Support job growth by providing neighborhood-supportive retail spaces along West San Carlos Street, providing a minimum 0.3 FAR of commercial space to meet the goals of the West San Carlos Urban Village Plan.
2. Provide new housing units to help with the City's housing demand by providing a minimum density of 110 DU/AC.
3. Increase tax revenue compared to existing conditions.
4. Create well-connected neighborhood by expanding sidewalk width plus activating the street frontage with commercial/retail uses.
5. Provide a new 30-foot wide paseo (park) space at the south edge of site⁹
6. Incorporate Mid-Century Modern design elements and Public Art into the project to reinforce the unique character of the neighborhood
7. Provide opportunities for social gathering such as the paseo and activated streetscape, to foster community spirit

2.5 USES OF THE EIR

This EIR provides decision makers in the City of San José and the general public with environmental information about to use in considering the proposed project. It is intended that this EIR be used for the discretionary approvals necessary to implement the project, as proposed. These discretionary actions may include, but are not limited to, the following:

- Special Use Permit
- Tree Removal Permit
- Demolition Permit
- Public Works Clearances including, a Grading Permit

⁹ As shown in Figure 2.2-5, the West San Carlos Urban Village Plan identifies a "Potential Paseo" on the southern West San Carlos Urban Village boundary between Meridian Avenue and South Buena Vista Avenue. The "Potential Paseo" category is used to designate lands that can be publicly- or privately owned that are intended to be programmed for active or passive linear open space. According to the West San Carlos Urban Village Plan, as more development comes to the area, there will be an opportunity to create a linked chain of park space through these linear planted buffer strips. (Source: City of San José. *West San Carlos Urban Village Plan*. Adopted May 8, 2019. Pages 28 and 41.)

The proposed project currently proposes a privately accessible 30-foot wide paseo on the southern portion of the site. The City will require an Irrevocable Offer of Dedication for Public Accessibility to be recorded against the property encompassing the paseo. In the interim, and as currently proposed, the paseo remains private while it is landlocked from the public right-of-way.

Ministerial permits would be subsequently obtained from the City, which could include demolition permits, grading permits, and building permits, in order to complete the project.

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

3.1	Aesthetics	3.11	Land Use and Planning
3.2	Agriculture and Forestry Resources	3.12	Mineral Resources
3.3	Air Quality	3.13	Noise
3.4	Biological Resources	3.14	Population and Housing
3.5	Cultural Resources	3.15	Public Services
3.6	Energy	3.16	Recreation
3.7	Geology and Soils	3.17	Transportation
3.8	Greenhouse Gas Emissions	3.18	Tribal Cultural Resources
3.9	Hazards and Hazardous Materials	3.19	Utilities and Service Systems
3.10	Hydrology and Water Quality	3.20	Wildfire

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 includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection 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.
- **Cumulative Impacts** – This subsection discusses the project’s cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts “when the project’s incremental effect is cumulatively considerable.” The discussion does not need to be in as great detail as is necessary for project impacts, but is to be “guided by the standards of practicality and reasonableness.” The purpose of the cumulative analysis is to allow decision makers to better understand the

impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130(b)(1)). This EIR uses the list of projects approach.

The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

Table 3.0-1 identifies the approved (but not yet constructed or occupied) and pending projects in the project vicinity that are evaluated in the cumulative analysis.

Table 3.0-1: Cumulative Projects List		
Name and Location	Description	Approximate Distance to Proposed Project
Pending		
259 Meridian Avenue Mixed-Use	241 residential units	963 feet
Approved But Not Yet Fully Constructed/Occupied		
329 Page Street Housing	82 residential units.	535 feet

3.1 AESTHETICS

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

Senate Bill 743

The California State legislature adopted Senate Bill (SB) 743 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.¹⁰

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 (I-280) from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.¹¹

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

¹⁰ 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 April 26, 2019.

<http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html>.

¹¹ California Department of Transportation. "Scenic Highways." Accessed April 26, 2019.

<http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html>.

Local

City of San José General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to visual character and scenic resources and would be applicable to the proposed project:

Envision San José 2040 General Plan Relevant Aesthetics Policies	
Policy	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Envision San José 2040 General Plan Relevant Aesthetics Policies

Policy	Description
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy 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.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Residential Design Guidelines

The *Residential Design Guidelines* establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The Residential Design Guidelines address a variety of areas, including street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design, that ultimately influence how developers and residents view and interact with one another in the City of San José.

City Council's Private Outdoor Lighting Policy 4-3

On March 1, 1983, the City of San José implemented the Outdoor Lighting on Private Development policy. The purpose of the policy is to promote energy-efficient outdoor lighting on private development in the City of San José that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

City of San José Interim Lighting Policy Broad Spectrum Lighting for Private Development

The City adopted an Interim Lighting Policy to encourage the use of broad-spectrum lighting such as LED for private streets, parking areas, and pedestrian areas as an alternative to low pressure sodium. Projects that met specific standards outlined in the Interim Policy regarding outdoor lighting plans, illumination levels, backlight, up light, glare, correlated color temperature, and dimming qualify for a permit adjustment and an exception to the required use of low-pressure sodium lighting on private development.

3.1.1.2 *Existing Conditions*

Project Site

The 1.34-acre project site is located at the southeast corner of West San Carlos Street and South Buena Vista Avenue, and consists of three parcels. The western parcel is currently developed with surface parking fronting West San Carlos Street and South Buena Vista Avenue. The surface lot is used for the display of for-sale cars, and is decorated with tall advertising signs. A one-story commercial building oriented diagonally with no identifiable architectural style and two shed-like structures are located behind the surface parking lot. Behind the shed-like structures is a one-story modern style commercial building with subtle Mission Revival influences. The building abuts the sidewalk on South Buena Vista Avenue and its western façade contains stucco cladding and vertical wood siding.

The eastern parcel is developed with a one-story modern-style rectangular commercial building occupied by a restaurant, and associated surface parking fronting West San Carlos Street and behind the restaurant building. The southern parcel, behind the restaurant building and separated by a wooden fence and roller gate, consists of eight stucco-clad residential units and three parking garages surrounding an internal U-shape drive through driveway. The residential units are comprised of seven identical Spanish Revival style bungalow units and a Craftsman style house. The bungalow units combined are referred to as a bungalow court. The Craftsman style house is larger than the Spanish Revival style bungalows. As further discussed in Section 3.5 Cultural Resources, the Craftsman style house and bungalow court are eligible as a candidate City Landmark. All buildings on-site are one story tall. There are 14 on-site trees scattered throughout the southeastern portion of the site where the residential units are situated, and one off-site trees adjacent to the west of the site on South Buena Vista Avenue. These trees are landscaping trees in varying species and sizes (refer to Table 3.4-1 and Table 3.4-2 in Section 3.4 Biological Resources for details on the size and species of these trees). The project site and area are relatively flat, and the site is mostly visible to the surrounding development and roadways. Refer to photos 1 through 4.

Surrounding Area

The project site is located in the West San Carlos Urban Village, which is an area developed with a mix of commercial and residential buildings, with the commercial areas lining West San Carlos Street and the residential areas located behind the commercial development. The project site is located in an urban area with buildings of varying condition, from recently developed high-density mixed-use buildings to low-density automobile commercial uses. The site is bordered by one- to two-story single-family development to the south, southeast, and southwest, a recently developed four-story senior-living development to the north, and one-story commercial development to the east, west, and northwest. The project area is developed with a mix of architectural styles including Craftsman, Tudor, Colonial Revival, Spanish Revival, Contemporary, and Mid Century Modern.¹² Refer to photos 4 through 8.

¹² City of San José. "Neighborhood Improvement Plan – Burbank/Del Monte Neighborhood Profile." Accessed: April 11, 2019. Available at: <https://sanjoseca.gov/DocumentCenter/View/2750>.



Photo 1: Project frontage on West San Carlos Street looking west.



Photo 2: Project frontage on South Buena Vista Avenue.

PHOTOS 1 AND 2



Photo 3: Existing commercial building and parking on South Buena Vista Avenue.



Photo 4: Existing commercial use on-site fronting West San Carlos Street.

PHOTOS 3 AND 4



Photo 5: Existing residential units and associated driveway on-site.



Photo 6: Residential development on South Buena Vista Avenue looking southwest.

PHOTOS 5 AND 6



Photo 7: Commercial use on West San Carlos Street looking east from the project frontage.



Photo 8: Senior living facility across the project site on West San Carlos Street.

PHOTOS 7 AND 8

Scenic Views and Resources

The City has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself, particularly high-rise development. Panoramic views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and foothills of the Santa Cruz Mountains, are key scenic features in the San José area. The project site is relatively flat and is located in an urbanized area of San José. As shown in Photos 1, 6, 7, and 8, views from the project site consists of development immediately surrounding the site, including commercial and residential buildings, landscape and street trees, and local roadways. Prominent views of the mountains are limited and obscured by the surrounding buildings, trees, and infrastructure (e.g., utility lines).

The project area is developed, and no natural scenic resources such as rock outcroppings are present on the site or in the project area. As further discussed in Section 3.5 Cultural Resources, the residential buildings on-site are considered eligible for listing as a candidate City Landmark. View of the residential buildings on-site are limited due to the setback from West San Carlos Street, the rolling gate, and the restaurant building.

Scenic Corridors

The City's General Plan identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment are crucial.

A review of the 2040 General Plan shows project site is 0.7 miles east to the nearest City designated Gateway, located on Stevens Creek Boulevard. The project site is not visible from the designated Gateway. The site is not located near the southern or eastern part of the City and, therefore, is not visible from any Rural Scenic Corridor.¹³

The City has designated SR 87, from the US-101 interchange to SR 85, and I-280 from the Interstate 880 (I-880) intersection to Fair Oaks Avenue in Sunnyvale, as Urban Throughways. The nearest Urban Throughway segment to the project site is I-280, 1.2 miles southwest of the site. SR 87 is 1.3 miles east of the site. The site is not visible from either SR 87 or I-280.

Transit Priority Area

The project site is located within a transit priority area, as defined in SB 743. The project site is primarily served by VTA Bus Routes 23 and 523. The nearest bus stops to the project site serve Route 23 and are located along both sides of San Carlos Street (near Buena Vista Avenue), approximately 100 feet from the project site. The nearest bus stop serving Route 523 is located at the intersection of Meridian Avenue and San Carlos Street, approximately 0.25 miles from the project site. Bus stops served by Bus Routes 23 and 523 qualify as major transit stops because the routes have headways of 15 minutes during the AM and PM peak commute periods (refer to Section 3.17 Transportation for additional details on existing transit facilities).

¹³ City of San José. *Envision San José 2040 General Plan*. October 2011. Page 213.

3.1.2 Impact Discussion

Thresholds of Significance

For the purpose of determining the significance of the project's impact on aesthetics and visual resources, a significant impact would occur if the project would:

- a) Have a substantial adverse effect on a scenic vista;
- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- c) Substantially degrade the existing visual character or quality of public views¹⁴ 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;
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

Note: Certain projects within transit priority areas need not evaluate aesthetics (Public Resources Code Section 21099).

3.1.2.1 *Project Impacts*

-
- a) Would the project have a substantial adverse effect on a scenic vista? b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway? c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**
-

As described above, the proposed project is relatively flat in an urbanized area of the City. Views from the project site is limited to the surrounding development and prominent views of scenic resources are limited and obscured, therefore, implementation of the proposed project would not have a substantial adverse effect on a scenic vista. As described above, the project site is not in proximity to, or visible from a state-designated scenic highway, therefore, would not damage scenic resources within a State scenic highway. The proposed project would be designed consistent with the City's applicable design guidelines. The proposed project would be expected to generate greater amounts of nighttime lighting than currently exists on-site due to the increased size of development on-site, however, the proposed project would be required to comply with City Council Policy 4-2 which regulates lighting to control the amount of glare and light that can affect nighttime views and surrounding residential development.

While the proposed project would result in changes to the built environment, the project is a residential and commercial mixed-use project located on an infill site within a transit priority area.

¹⁴ Public views are those that are experienced from publicly accessible vantage points.

Pursuant to SB 743 (Public Resources Code Section 21099(d)(1)) “aesthetic and parking impacts of a residential, mixed-use residential, or employment center on an infill site within a transit priority area shall not be considered significant impacts on the environment;” therefore, the aesthetics impacts of the project are not considered to be significant. **(Less than Significant Impact)**

3.1.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative aesthetics impacts?

See Impact AES-1 discussion above. **(Less than Significant Cumulative Impact)**

3.2 AGRICULTURE AND FORESTRY RESOURCES

3.2.1 Environmental Setting

3.2.1.1 *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.¹⁵

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.¹⁶

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.¹⁷ 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.¹⁸

¹⁵ California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 26, 2019. <http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx>.

¹⁶ California Department of Conservation. "Williamson Act." <http://www.conservation.ca.gov/dlrp/lca>.

¹⁷ 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)).

¹⁸ California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 26, 2019. <http://frap.fire.ca.gov/>.

Local

City of San José General Plan

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to agricultural resources and are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Agricultural Resources Policies	
Policy	Description
Policy LU-12.3	<p>Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means:</p> <ul style="list-style-type: none">• Limit residential uses in agricultural areas to those which are incidental to agriculture.• Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.• Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.• Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
Policy LU-12.4	<p>Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.</p>

3.2.1.2 *Existing Conditions*

The project site is not used for agricultural or timberland purposes, and is located within an existing developed area of Santa Clara County. According to the *Santa Clara County Important Farmland 2016* map, the project site is designated as *Urban and Built-Up Land*, meaning that the land contains a building density of at least six units per 10-acre parcel. Common examples of *Urban and Built-Up Land* include residential, industrial, and commercial purposes; golf courses; landfills; airports; sewage treatment; and water control structures.¹⁹

The site is not the subject of a Williamson Act contract.²⁰ No land adjacent to the project site is designated or used as farmland, timberland, or forest land.

3.2.2 Impact Discussion

Thresholds of Significance

For the purpose of determining the significance of the project's impact on agriculture and forestry resources, a significant impact would occur if the project would:

¹⁹ California Department of Conservation. *Santa Clara County Important Farmland 2016*. September 2018.

²⁰ California Department of Conservation. *Santa Clara County Williamson Act FY 2015/2016*. 2016.

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use;
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract;
- c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g));
- d) Result in a loss of forest land or conversion of forest land to non-forest use;
- e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

3.2.2.1 *Project Impacts*

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

The project site is not used for agricultural purposes, and is not designated by the Department of Conservation as farmland of any type. For these reasons, the proposed project would not result in impacts to agricultural resources. **(No Impact)**

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

The project site is not zoned for agriculture, and it is not the subject of a Williamson Act contract. The project would not conflict with existing zoning for agriculture. **(No Impact)**

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

The project site and surrounding area are developed with urban uses, and are not zoned for forest land or timberland. The project would not conflict with existing zoning for forest land, timberland, or timberland production. **(No Impact)**

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

Neither the project site, nor any of the properties adjacent to the project site or in the vicinity, is used for forest land or timberland. The proposed project would, therefore, not impact forest land or timberland. **(No Impact)**

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

According to the *Santa Clara County Important Farmland 2016* map, the project site and surrounding area are designated as *Urban and Built-Up Land*. Development of the project site would not result in conversion of any forest or farmlands. **(No Impact)**

3.2.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant agricultural and forestry resources impact?

As discussed above, the proposed project would not impact agricultural, forestry, and/or timberland; therefore, the proposed project would not contribute to a cumulative impact to those resources. **(No Cumulative Impact)**

3.3 AIR QUALITY

This discussion is based, in part, on an Air Quality & Greenhouse Gas Assessment prepared by Illingworth & Rodkin, Inc. on March 26, 2020. This report is included in this EIR as Appendix B.²¹

3.3.1 Environmental Setting

3.3.1.1 *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 (O₃), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.²² 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 3.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

Table 3.3-1: Health Effects of Air Pollutants		
Pollutants	Sources	Primary Effects
O ₃	Atmospheric reaction of organic gases with nitrogen oxides in sunlight	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• 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	<ul style="list-style-type: none">• Cancer• Chronic eye, lung, or skin irritation• Neurological and reproductive disorders

²¹ Since completion of the Air Quality & Greenhouse Gas Assessment, the size of the project was reduced. The total residential units were reduced from 174 to 173 units, the total commercial development was reduced from 19,600 to 17,836 square feet. The parking was reduced from 199 spaces to 189 spaces. The slight decrease in development would result in either marginally decreased air quality emissions, GHG emissions, and community risks from construction or have very similar results. The significance and mitigation measures described within the report would remain the same.

²² 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.

High O₃ 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 O₃ levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O₃ levels. The highest O₃ 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 (PM₁₀) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM_{2.5}). Elevated concentrations of PM₁₀ 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).²³ 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.

3.3.1.2 *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

²³ California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed December 10, 2019. <https://www.arb.ca.gov/research/diesel/diesel-health.htm>.

Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants, including PM, O₃, CO, SO_x, NO_x, and lead.

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 addition 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.²⁴

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.

²⁴ BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017. <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>.

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

Community Air Risk Evaluation Program

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

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

Local

Envision San José 2040 General Plan

In connection with the implementation of BAAQMD's 2017 CAP, various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The proposed project would be subject to the air quality policies listed in the General Plan, including the following:

Envision San José 2040 General Plan Relevant Air Quality Policies	
Policy	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are

	sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.3	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 Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.
Policy CD-3.3	Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

3.3.1.3 *Existing Conditions*

Regional and Local Criteria Air Pollutants

The Bay Area is considered a non-attainment area for ground-level O₃ and PM_{2.5} under both the federal and state Clean Air Act. The area is also considered nonattainment for PM₁₀ under the state 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 O₃ and PM₁₀, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for O₃ precursor pollutants (ROG and NO_x), PM₁₀, and PM_{2.5}, and apply to both construction period and operational period impacts.

Sensitive Receptors

The closest sensitive receptors to the project site are the adjacent single- and multi-family residences south, southeast, and southwest of the project site. There are additional residences at farther distances from the project site.

3.3.2 Impact Discussion

For the purpose of determining the significance of the project's impact on air quality, a significant impact would occur if the project would:

Thresholds of Significance

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

- b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard;
- c) Expose sensitive receptors to substantial pollutant concentrations;
- d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM_{2.5}. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.3-2 below.

Table 3.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Annual Daily Emissions (pounds/year)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (eight-hour) or 20.0 ppm (one-hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	Single Source	Combined Cumulative Sources	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual PM _{2.5}	0.3 µg/m ³	0.8 µg/m ³ (average)	

In a 2018 decision (*Sierra Club v. County of Fresno*), the Supreme Court of California determined that CEQA requires that the potential for the project's emissions to affect human health in the air

basin must be disclosed when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a considerably to a significant cumulative impact. 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 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size 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 not to have an adverse health effect.

3.3.2.1 *Project Impacts*

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

The proposed project would not conflict with the 2017 CAP because its criteria air pollutant emissions would be lower than the BAAQMD Operational Criteria Pollutant significance thresholds shown in Table 3.3-2 (see further discussion under Impact AIR-2 below), it is considered urban infill, and it would be located near bike paths and transit with regional connections. Thus, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining state and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. **(Less than Significant Impact)**

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

Construction Period Emissions

Construction emissions are made up of on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic.

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site could deposit mud on local streets, which could be an additional source of airborne dust after it dries.

A construction build out scenario, including equipment list and schedule, was based on CalEEMod default information for projects of similar size and type. The project applicant, however, provided information regarding the building size, soil hauling volumes, and when construction was anticipated

to begin and complete. Construction of the project would occur in two phases, with Building 1 (east side of the site) estimated to start construction in June 2020, and Building 2 (west side of the site) being constructed after completion of Building 1.²⁵ There would be no overlap between the two phases, and Building 1 would be operational while Building 2 is under construction. Refer to Appendix B for details about the modeling, data inputs, and assumptions.

Table 3.3-3 below summarizes the project's estimated construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust.

Table 3.3-3: Summary of Project Construction Period Emissions				
Scenario	ROG	NO_x	PM₁₀ Exhaust	PM_{2.5} Exhaust
Phase 1 - 2020-2021 (24 months)	1.2	3.6	0.17	0.16
Phase 2 - 2022-2023 (24 months)	0.8	2.4	0.10	0.10
Average daily emissions (pounds) ¹	6.6	19.9	0.9	0.8
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
Notes: ¹ Assumes 602 workdays. Source: Illingworth & Rodkin, Inc. 1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment. March 26, 2020.				

As shown in Table 3.3-3, the calculated construction ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust emissions are below the BAAQMD significance thresholds. BAAQMD considers construction emissions impacts that are below the thresholds of significance (such as those of the project) less than significant. While the impact would be less than significant, the project would implement the following Standard Permit Conditions as a condition of approval to further reduce emissions.

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

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

²⁵ The project originally assumed a construction start time of June 2020, which is the year the air quality and GHG analysis relied upon to model emissions. Since the project has progressed, the estimated start time has been updated to June 2021. While it is acknowledged the construction start time is shifted to a later time, the construction start time in the air quality model was kept as is for a more conservative analysis. The air quality/GHG model accounts for cleaner construction equipment and building operational efficiency emissions as the construction and operational years increase, therefore, using the earlier estimated construction and operational start time than the actual later start time is a more conservative analysis. Source: Divine, Casey. Illingworth & Rodkin, Inc. Personal Communication. December 15, 2020.

- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Construction dust and other particulate matter would have a less than significant construction criteria air pollutant emissions impact. **(Less than Significant Impact)**

Operational Period Emissions

Operational air emissions from the project would be generated primarily from automobiles driven by future residents, customers, and employees. In addition, evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are also typical emissions from residential and commercial uses. Table 3.3-4 below summarizes the project's estimated operational emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust. Refer to Appendix B for details about the modeling, data inputs, and assumptions.

Table 3.3-4: Summary of Project Operational Period Emissions				
Scenario	ROG	NO_x	PM₁₀ Exhaust	PM_{2.5} Exhaust
2025 Project Operational Emissions (tons/year)	1.02	0.86	0.85	0.24
2025 Existing Operational Emissions (tons/year) ¹	0.14	0.14	0.09	0.03
Net Operational Emissions (tons/year)	0.88	0.73	0.76	0.21
<i>BAAQMD Thresholds (tons /year)</i>	<i>10</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
Net Operational Emissions (lbs/day) ²	4.83	3.98	4.19	1.14

<i>BAAQMD Thresholds (pounds/day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>
Notes: ¹ This scenario represents the site's 2025 emissions if the existing development remain as is. ² Assumes 365-day operation. Source: Illingworth & Rodkin, Inc. <i>1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment</i> . March 26, 2020.				

As shown in Table 3.3-4, the calculated operational ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust emissions are below the BAAQMD thresholds of significance; therefore, the project would have a less than significant operational criteria pollutant emissions impact. **(Less than Significant Impact)**

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

Project impacts related to increased community risk can occur either by introducing a new sensitive receptor, such as a residential use, in proximity to an existing source of TACs (discussed in Section 3.3.3 Non-CEQA Effects), or by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity (discussed below).

Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Construction exhaust emissions can pose health risks for nearby sensitive receptors such as the surrounding residents. The primary community risk impact issue associated with construction emissions are cancer risk and exposure to PM_{2.5}. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors.

A health risk assessment of the project construction activities was completed by predicting the increased lifetime cancer risks, the increase in annual PM_{2.5} concentrations, and Hazard Index (HI) for non-cancer health risks. Refer to Appendix B for details about the modeling, data inputs, and assumptions.

Table 3.3-5 below summarizes the project's maximum increased lifetime cancer risks, increase annual PM_{2.5} concentrations, and HI based on the maximum DPM concentration affecting the maximally exposed individual (MEI). As shown in Table 3.3-5, the construction health risk impacts would exceed the BAAQMD single-source thresholds for maximum increased lifetime cancer risks and annual PM_{2.5} concentrations, while the single-source HI threshold would not be exceeded.

Table 3.3-5: Construction Risk Impacts at Offsite MEI			
Scenario	Cancer Risk (per million)	PM₁₀ Exhaust	Hazard Index
Project Construction (unmitigated)	108.6 (infant)	0.87	0.07
BAAQMD Single-Source Threshold	>10.0	>0.3	>1.0
<i>Significant (unmitigated)?</i>	Yes	Yes	<i>No</i>

Table 3.3-5: Construction Risk Impacts at Offsite MEI			
Scenario	Cancer Risk (per million)	PM₁₀ Exhaust	Hazard Index
Project Construction (with mitigation measure MM AQ-1.1)	3.6 (infant)	0.13	0.01
<i>Significant (mitigated)?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Source: Illingworth & Rodkin, Inc. 1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment. March 26, 2020.			

Impact AQ-1: Construction activities associated with the proposed project would expose the maximally exposed individuals near the project site to cancer risk and PM₁₀ exhaust in excess of BAAQMD thresholds.

Mitigation Measure:

MM AQ-1.1: Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs first), the project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's designee. 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 in these mitigation measures. Feasible methods to achieve this reduction would include the following:

1. All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 interim engines or equivalent.
2. Provide electric power to avoid use of diesel-powered generator sets and other portable equipment.
3. Alternatively, equipment that meets U.S. EPA Tier 3 engines standards for particulate matter that include CARB-certified Level 3 Diesel Particulate Filters²⁶ or use of equipment that is electrically powered or uses non-diesel fuels would meet this requirement.

Modeling was completed to determine the effectiveness of mitigation measure MM AQ-1.1. The results show that with implementation of mitigation measure MM AQ-1.1, the construction maximum increased lifetime cancer risks (assuming infant exposure) and maximum increased annual PM_{2.5} concentrations would be reduced to a less than significant level (see Table 3.3-5). **(Less than Significant Impact with Mitigation Incorporated)**

²⁶ See <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>.

Operation

The project proposes residential and commercial (office and retail) uses; therefore, the project would not be introducing a substantial source of operational-related, localized TACs. The project would generate some traffic, consisting of mostly light-duty vehicles that are not a substantial source of TACs or PM_{2.5}, and these would not result in localized health risks. Therefore, the project would not result in significant operational TAC impacts on existing sensitive receptors. **(Less than Significant Impact)**

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

Construction

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, diesel exhaust has highly diffusive properties, and the odors would be localized and temporary. **(Less than Significant Impact)**

Operation

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities. Residential and commercial mixed-use developments, such as the proposed project, do not typically generate objectionable odors. **(Less than Significant Impact)**

3.3.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant air quality impact?

Criteria Air Pollutant Emissions

By its very nature, air pollution is largely a cumulative impact. The geographic area for cumulative criteria air pollutant impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects in the Bay Area contribute to the adverse cumulative criteria air pollutant impacts. No single land use 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.

Construction

As discussed above, the project would not result in significant construction criteria air pollutant emissions; therefore, would not result in a cumulatively considerable contribution to criteria air pollutant impacts. **(Less than Significant Cumulative Impact)**

Operation

As discussed above, operation of the project would not result in significant operational criteria air pollutant emissions; therefore, would not result in a cumulatively considerable contribution to criteria air pollutant impacts. **(Less than Significant Cumulative Impact)**

Exposure of Sensitive Receptors

The geographic area for cumulative community health risk impacts to sensitive receptors is within 1,000 feet of the project site as recommended by BAAQMD, because adverse effects are the greatest within this distance. At further distances, health risk diminishes. A review of the project area indicates existing sources of TACs within 1,000 feet of the project site include West San Carlos Street (with over 10,000 average daily trips), and a diesel generator operated by the San José Water Company (Plant#19794). In addition, construction of the project could overlap with two other cumulative projects within 1,000 feet of the project site. The two cumulative projects include 259 Meridian Avenue Mixed-Use, and 329 Page Street Housing (refer to Table 3.0-1 for a description of these projects). The 259 Meridian Avenue Mixed-Use project is located approximately 960 feet northeast from the project site, and the 329 Page Street Housing project is located approximately 540 feet east from the project site.

Community risk impacts from the cumulative sources to the project MEI were modeled and the results are summarized in Table 3.3-6. Refer to Appendix B for additional details about the modeling, data inputs, and assumptions. As shown in Table 3.3-6, the project would not have a cumulatively considerable contribution to a significant cumulative increased maximum lifetime cancer risks and annual PM_{2.5} concentrations. The project would not exceed the cumulative threshold for HI.

Table 3.3-6: Cumulative Community Risk at Offsite MEI			
Scenario	Cancer Risk (per million)	PM₁₀ Exhaust	Hazard Index
Project Construction (unmitigated)	108.6 (infant)	0.87	0.07
Project Construction (with mitigation measure MM AQ-1.1)	3.6 (infant)	0.13	0.01
West San Carlos Street at 230 feet (21,795 average daily trips)	3.1	0.11	<0.03
San José Water Company Diesel Generator with MEI at 620 feet	2.7	0.01	<0.01
259 Meridian Avenue Mixed-Use Construction	7.4	0.11	0.01
329 Page Street Housing Construction	<10.0	<0.3	<1.0
Cumulative Sources with unmitigated project construction emissions	131.8 (infant)	1.4	1.1
Cumulative Sources with mitigated project construction emissions	26.8 (infant)	0.66	1.1

<i>BAAQMD Cumulative Threshold</i>	<i>>100</i>	<i>>0.8</i>	<i>>10.0</i>
<i>Exceed Threshold (unmitigated)?</i>	Yes	Yes	<i>No</i>
<i>Exceed Threshold (with mitigation measure MM AQ-1.1)?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Source: Illingworth & Rodkin, Inc. 1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment. March 26, 2020.			

Impact AQ(C)-1: The maximum cancer risk and annual PM₁₀ concentration would exceed the BAAQMD threshold for cumulative sources.

Mitigation Measure:

MM AQ(C)-1: See mitigation measure MM AQ-1.1.

As discussed above, implementation of mitigation measure MM AQ-1.1 would reduce the project construction cancer risk and annual PM_{2.5} emission to the off-site MEI below the single-source threshold. As shown in Table 3.3-6, implementation of mitigation measure MM AQ-1.1 would also reduce the maximum increased cumulative lifetime cancer risks and annual PM_{2.5} concentrations impacts to a less than significant level. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

3.3.3 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 City of San José has Policy MS-11.1, which specifically addresses existing air quality conditions affecting a proposed project.

The project would be constructed in two phases, occurring one after another. The first phase would become operational once constructed. Therefore future residences of the first phase development would be considered sensitive receptors during construction of the second phase development. Community health risk effects to future on-site residences from TAC sources from construction were modeled. The results are summarized in Table 3.3-7. Refer to

Appendix B for additional details about the modeling, data inputs, and assumptions. As shown in Table 3.3-7, the construction health risk effects would exceed the BAAQMD single-source thresholds for maximum increased lifetime cancer risks and annual PM_{2.5} concentrations, while the single-source HI threshold would not be exceeded.

Table 3.3-7: Construction Risk Effects to Future Sensitive Receptors			
Scenario	Cancer Risk (per million)	PM₁₀ Exhaust	Hazard Index
Project Construction (unmitigated)	115.1 (infant)	0.99	0.13
BAAQMD Single-Source Threshold	>10.0	>0.3	>1.0

Table 3.3-7: Construction Risk Effects to Future Sensitive Receptors			
Scenario	Cancer Risk (per million)	PM₁₀ Exhaust	Hazard Index
<i>Significant (unmitigated)?</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>
Project Construction (with mitigation measure MM AQ-1.1)	3.5 (infant)	0.07	0.01
<i>Significant (mitigated)?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Source: Illingworth & Rodkin, Inc. 1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment. March 26, 2020.			

In addition, the cumulative risk effects from cumulative sources (project construction, high-volume roadway, stationary source, and cumulative projects) to the future sensitive receptors were modeled. The results are summarized in Table 3.3-8. Refer to Appendix B for additional details about the modeling, data inputs, and assumptions. As shown in Table 3.3-8, the maximum cumulative lifetime cancer risks and annual PM_{2.5} concentrations would exceed their respective BAAQMD cumulative source thresholds, while the cumulative source HI threshold would not be exceeded.

Table 3.3-8: Cumulative Community Risk Effects to Future Sensitive Receptors			
Scenario	Cancer Risk (per million)	PM₁₀ Exhaust	Hazard Index
Project Construction (unmitigated)	115.1 (infant)	0.99	0.13
Project Construction (with mitigation measure MM AQ-1.1)	3.5 (infant)	0.07	0.01
West San Carlos Street at 40 feet (21,795 average daily trips)	8.1	0.3	<0.03
San José Water Company Diesel Generator with MEI at 520 feet	3.0	<0.01	0.01
259 Meridian Avenue Mixed-Use Construction	7.4	0.11	0.01
329 Page Street Housing Construction	<10.0	<0.3	<1.0
Cumulative Sources with unmitigated project construction emissions	143.6	<1.7	<1.2
Cumulative Sources with mitigated project construction emissions	32.0	<0.79	<1.1
<i>BAAQMD Cumulative Threshold</i>	<i>>100</i>	<i>>0.8</i>	<i>>10.0</i>
<i>Exceed Threshold (unmitigated)?</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>
<i>Exceed Threshold (with mitigation measure MM AQ-1.1)?</i>	<i>No</i>	<i>No</i>	<i>No</i>
Source: Illingworth & Rodkin, Inc. 1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment. March 26, 2020.			

Modeling was completed to determine the effectiveness of mitigation measure MM AQ-1.1. As shown in Table 3.3-8, with implementation of mitigation measure MM AQ-1.1, the maximum lifetime cancer risks and annual PM_{2.5} concentrations would be reduced below the single, and cumulative source thresholds, and the project would be consistent with Policy MS-11.1.

3.4 BIOLOGICAL RESOURCES

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

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” said 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, Section 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 and Birds of Prey Protections

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade in 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.²⁷ 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 Habitats

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 US 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.

²⁷ U.S. Department of the Interior. M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take. <https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf>.

CDFW Stream/Riparian Habitat

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 an area of 519,506 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 approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Biological Resources Policies	
Policy	Description
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

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

Policy 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.

San José Tree Ordinance

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

3.4.1.2 Existing Conditions

The project site is located within the Habitat Plan study area and is designated as Urban-Suburban land.²⁸ Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres.

The project site is in an urban area surrounded by existing commercial and residential development. The site is currently developed with eight residential units, three commercial buildings, ancillary structures, a paved driveway, and surface parking. The primary biological resources on-site are trees. As summarized in Table 3.3-1, the site contains 14 trees, 11 of which are ordinance-sized.²⁹ There is also one off-site street tree adjacent to the western boundary of the site, which is ordinance sized.

Table 3.4-1: Summary of On-Site Trees			
Tree #	Common Name	Scientific Name	Circumference (in inches)
1	Apple tree	Malus	48
2	Southern magnolia	Magnolia grandiflora	91

²⁸ Santa Clara Valley Habitat Agency. "Geobrowser." Accessed: July 25, 2019. Available at: <http://www.hcpmaps.com/habitat/>.

²⁹ It is conservatively assumed that trees unable to be identified are ordinance sized trees.

3	--	--	--
4	Blue jacaranda	jacaranda mimosifolia	59.5
5	Boxelder	Acer negundo	123.5
6	Chinese firethorn	Pyracantha fortuneana	27.5
7	Chinese firethorn	Pyracantha fortuneana	48
8	White willow	Salix alba	115.5
9	White Crepe Myrtle	Natchez	15
10	Blue potato bush	Lycianthes rantonnetii	15.5
11	--	--	--
12	--	--	--
13	--	--	--
14	--	--	--
Note: -- denotes trees unable to measure due to location			
Tree survey completed by David J. Powers & Associates on April 29, 2019.			

Table 3.4-2: Summary of Off-Site Tree			
Tree #	Common Name	Scientific Name	Circumference (in inches)
15	Australian blackwood	Acacia melanoxylon	133.5
Tree survey completed by David J. Powers & Associates on and July 19, 2019.			

The locations of these trees are shown on Figure 3.4-1.

Developed, urban areas are generally low in species diversity. Common species that occur in urban environments include rock pigeons, mourning doves, house sparrows, finches, and European starlings. Raptors and other avian species could forage in the project area or nest in surrounding landscaping or within buildings.

There are no sensitive habitats or wetlands on or adjacent to the project site. The project site is located approximately 0.8 miles west of the Los Gatos Creek riparian corridor and is separated from the creek by urban infrastructure and development, including commercial and residential development, railroad tracks, a rail yard, and the West San Carlos Street bridge. Due to the lack of sensitive habitats, and the human disturbance and development in the project area, special-status plant and animal species are not expected to occur.



TREE LOCATION MAP

FIGURE 3.4-1

3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, a significant impact would occur if the project would:

- a) Thresholds of Significance Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS);
- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS;
- c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance;
- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

3.4.2.1 *Project Impacts*

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

The project site is located in an urban area and is currently developed with residential and commercial uses. No sensitive habitats or habitats suitable for special-status plant or wildlife species occur on or adjacent to the project site; therefore, development of the project site under the proposed project would not directly impact special-status species. **(Less than Significant Impact)**

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

The project site is in an urban area and does not contain any riparian habitats or other sensitive natural communities. The nearest riparian corridor to the site is Los Gatos Creek, approximately 0.8 miles east of the project site and separated from the site by urban infrastructure and development. The proposed project would not substantially affect riparian habitat or sensitive natural communities. **(Less than Significant Impact)**

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

The project site is surrounded by urban uses and does not contain wetlands, marshes, and vernal pools. The project would not impact any federally protected wetlands under the Clean Water Act. **(No Impact)**

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

The site does not support a watercourse or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. As discussed above, the nearest watercourse to the project site, Los Gatos Creek, is located approximately 0.8 miles east of the site. The site is separated from Los Gatos Creek by existing development, including commercial and residential development, railroad tracks, a rail yard, and the West San Carlos Street bridge. Therefore, the site has limited potential to serve as a migratory corridor for wildlife.

The trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds and raptors. Nesting birds are among the species protected under provisions of the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 2800. Development of the site during the nesting season (i.e., February 1 to August 31) could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW and USFWS. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute an impact. Construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the construction zone would also constitute an impact.

Impact BIO-1: Project construction could impact nesting birds on or adjacent to the site, if present.

Mitigation Measures: The project would implement the following measures to avoid impacts to nesting migratory birds. Within incorporation of these measures, the project would result in a less than significant impact.

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

MM BIO-1.2: Nesting bird surveys. If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities

during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

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

Implementation of mitigation measures MM BIO-1.1 through MM BIO-1.4 would reduce potential impacts to migratory birds and raptors to a less than significant level. **(Less than Significant Impact with Mitigation Incorporated)**

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

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

The project site currently supports 14 trees, 11 of which are ordinance-sized trees. Development of the site with the proposed project would result in the removal of the existing trees on-site, and one additional street tree off-site. The proposed project would be required to offset the impact to the urban forest through compliance with Standard Permit Conditions below.

Standard Permit Condition: The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3.4-1 below, as amended.

Table 3.4-1: 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 container
19 – 38 inches	3:1	2:1	None	15-gallon container
Less than 19 inches	1:1	1:1	None	15-gallon container
¹ As measured 4.5 feet above ground level ² x:x = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. A 38-inch tree is 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees.				

- Since (all) 14 trees on-site and one tree off-site would be removed, one tree would be replaced at a 5:1 ratio, three trees would be replaced at a 2:1 ratio, and the remaining 11 trees would be replaced at a 4:1 ratio. As mentioned previously, there is one native tree (boxelder) on-site. The total number of replacement trees required to be planted would be 55 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.

Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Through compliance with the Standard Permit Conditions above, the project would offset the loss of the existing trees and reduce the impacts of tree removal to a less than significant level. **(Less than Significant Impact)**

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

The Habitat Plan identifies and preserves land that provides important habitat for endangered and threatened species. The land preservation is intended to provide mitigation for the environmental

impacts of planned development, public infrastructure operations, and maintenance activities, as well as to enhance the long-term viability of endangered species.

The project site is located within the Habitat Plan study area and is designated as Urban-Suburban land. Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres. Vegetation found in Urban-Suburban land is usually in the form of landscaping, planted street trees, and parklands. The project site is not identified as important habitat for endangered and threatened species. Therefore, the proposed project would not result in direct impacts to the Habitat Plan's covered species.

Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the Habitat Plan area, as well as the host plants that support the federally endangered Bay checkerspot butterfly. Mitigation for the impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. Fees collected under the Habitat Plan for new vehicle trips can be used to purchase conservation land for the Bay checkerspot butterfly. The Habitat Plan requires nitrogen deposition fees for all study area projects that generate new vehicle trips in order to address cumulative nitrogen deposition impacts. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: The project shall implement the following condition to reduce the impacts to endangered and threatened species:

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

Compliance with the Standard Permit Condition listed above would ensure that the project does not conflict with the provisions of the Habitat Plan. The project would pay nitrogen deposition fees based on the trip generation associated with the proposed uses. **(Less than Significant Impact)**

3.4.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant biological resources impact?

The geographic area for cumulative biological resources impacts include the project site and adjacent parcels because localized development would affect the same group of biological resources. The project area is located within an urbanized area and does not contain sensitive habitat.

As discussed above, the proposed project would not substantially impact the movement of fish or wildlife species, established wildlife corridors, native wildlife nursery sites, riparian habitat,

wetlands, other sensitive natural communities, or the adopted habitat conservation plan. For this reason, the project would not have a cumulatively considerable contribution toward any significant impacts to these resources.

Construction of the proposed project could impact nesting birds (if present during construction) and trees. Other past, present, and pending development projects could also impact nesting birds (if present during construction) and trees. Cumulatively, the proposed project and other development projects in the area could result in a significant impact to these biological resources. Each development project, however, is subject to federal, state, and local regulations (including the MBTA, Fish and Game Code, and SMC) which avoid and/or minimize impacts to nesting birds and trees. For these reasons, the proposed project would not have a cumulatively considerable contribution to a significant cumulative biological resources impact. **(Less than Significant Cumulative Impact)**

3.5 CULTURAL RESOURCES

This discussion is based, in part, on two Historic Resource Evaluation reports prepared by TreanorHL in July 2019. Copy of these reports are included in Appendix C of this EIR.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act (NHPA) of 1966 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 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.

The NRHP is the nation's master inventory of historic resources that are considered significant at the national, state, or local level. The minimum criteria for determining NRHP eligibility follow:

The property is at least 50 years old (properties under 50 years of age that are of exceptional importance or are contributors to a district can also be included in the NRHP);

It retains integrity of location, design, setting, materials, workmanship, feeling, and associations; and
It possesses at least one of the following characteristics:

- Association with events that have made a significant contribution to the broad patterns of history.
- Association with the lives of persons significant in the past.
- Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant, distinguishable entity whose components may lack individual distinction.
- Has yielded, or may yield, information important to prehistory or history.

State

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.³⁰

³⁰ CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. March 14, 2006.

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 hence; in evaluating adverse changes to them. Integrity is defined as “the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The process of determining integrity is 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.

Secretary of the Interior’s Standards for the Treatment of Historic Properties

The 1995 United States Secretary of Interior’s Standards for the Treatment of Historic Properties outlines specific standards and guidelines for the preservation, rehabilitation, restoration, and reconstruction of historic properties. Each set of standards provides specific recommendations for the proper treatment of specific building materials, as well as parts of building construction. CEQA references these standards relative to consideration of the significance of project impacts, or lack therefore, on historic resources.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

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

Local

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Cultural Resources Policies	
Policy	Description
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.
Policy LU-13.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy 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.
Policy LU-13.13	Foster the rehabilitation of buildings, structures, areas, places, and districts of historic significance. Utilize incentives permitting flexibility as to the uses; transfer of development rights; tax relief for designated landmarks and districts; easements; alternative building code provisions for the reuse of historic structures; and financial incentives.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.
Policy LU-16.4	Development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory shall require the salvage of the resource's building materials and architectural elements as to allow re-use those elements and materials and avoid the energy costs of producing new and disposing of old building materials.

City of San José Municipal Code – Historic Preservation Ordinance

City of San José Criteria for Local Significance

In accordance with the City of San José’s Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has “special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature” and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

The ordinance defines the term “historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, State or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
 - a. Of an architectural style, design or method of construction;
 - b. Of a master architect, builder, artist or craftsman;
 - c. Of high artistic merit;
 - d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
 - e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
 - f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The ordinance also provides a designation of a district: “a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

The Historic Landmarks Commission reviews landmark designations and “shall find that said proposed landmark has special historical, architectural, cultural, aesthetic, or engineering interest or value of an historical nature, and that its designation as a landmark conforms with the goals and policies of the general plan. In making such findings, the Commission may consider the

following factors, among other relevant factors, with respect to the proposed landmark:

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture;
 2. Its location as a site of a significant historic event;
 3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history;
 4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;
 5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
 6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
 7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José; and
 8. Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.
- (Sec. 13.48.110.H)

3.5.1.2 *Historic Context*

Neighborhood Context

In the early nineteenth century the project site was part of lands belonging to the Mission Santa Clara. By 1844, after the secularization of the Mission in the previous decade, the Rancho de los Coches was established on approximately 2,219-acres. The portion of the former Rancho de los Coches that the project site occupies was surrounded by large parcels of agricultural land for many decades. The agricultural land had a diverse use from raising stock to growing fruits, vegetables and grains. In 1903 access to surrounding communities was provided by the establishment of the San José & Los Gatos Interurban Railroad. This new rail line ran along Stevens Creek Boulevard (formerly Stevens Creek Road and present-day West San Carlos Street) and connected the Burbank neighborhood to downtown San José and neighboring Los Gatos. Soon after the establishment of the rail line, the Luther Burbank School was constructed in 1906 to accommodate the growing population in the area. Additional suburban neighborhoods were established along the rail line as there was now an easy and convenient way to get to the downtown commercial core of the City. By 1927 a section of Stevens Creek Road was renamed West San Carlos Street. By the 1930s, the automobile was growing in prominence and the railway ceased to operate. With the growing reliance on the automobile and the development of the suburbs, downtown businesses began to move out of the City center to the suburbs. One main destination of these businesses was West San Carlos Street/Stevens Creek Boulevard, as the street had become a main thoroughfare. Soon the area, including the subject property, became a commercial center on the west side of the City.

Roadside Architecture Context

Dominated by the fruit industry, San José was the financial and business center of a vast agricultural area in the 1920s. The orchards and the associated industry and infrastructure in the Santa Clara Valley were the leading sources of employment in San José until the early 1950s. Soon after World War II, the business community launched an active campaign to attract new non-agricultural related industries (i.e. electronic and defense) to the area. Attracted by the increasing job market, the

population of the valley experienced extensive growth after 1950. Rural roads were widened into freeways, and expressways and boulevards were lined with restaurants and automobile salesrooms. The City grew from 17 square miles to 136 square miles in twenty years.

San José transformed during the aggressive annexation program in the mid-20th century which brought additional parkways, highway improvements, and street widenings or extensions, which was followed by continued development of roadside architecture. Examples of buildings designed specifically for the automobile exists in pockets along major thoroughfares throughout the city. Specifically, during this period, the blocks along West San Carlos Street transformed from predominately residential to a main commercial corridor lined with businesses and modern strip malls. The new commercial buildings were often setback from the street with paved parking areas between the street and the structures. Between Highway 880 and Sunol Street, the 1950 Sanborn map shows an emerging concentration of auto related businesses along West San Carlos Street.

Bungalow Courts Context

The bungalow court became prevalent in California starting in the 1910s until the 1940s. While bungalow courts began in southern California, by the 1920s, courts were common across the suburban landscape of the state. The early courts in southern California were loosely related to the regions shanty towns which housed immigrants who came to the area for seasonal work. Shanty towns were mostly dilapidated groupings of cottages. Bungalow courts were, however, thoughtfully designed sites and buildings, unlike the hastily developed shanty towns. With the advent of the automobile, roadside motor courts were developed and are closely related to bungalow courts.

The motor courts were convenient overnight stopping points for automobile travelers on long journeys. Bungalow courts began to fall out of style in the 1930s when garden style apartments became popular.

Bungalow courts featured individual or attached dwelling units around a courtyard. The small bungalows surrounding a court were designed in various architectural styles, but most were in craftsmen or eclectic styles. Mission Revival style courts dominated the landscape prior to World War II. While after the war other styles were more widely used – Spanish Colonial, Tudor, Norman, Art Deco, and Moderne. Bungalow courts were not just limited to California, Arizona and Florida also had bungalow courts develop in their suburban areas. Generally, in California, the bungalow court was “a group of three or more detached, essentially identical one-story single-family dwellings, with building utilities and services usually under common ownership.” The simple wood frame structures were similar within each court and allowed builders to replicate the same details in each unit.

While bungalow courts were multi-family housing, they offered alternatives to living in traditional apartments and tenements. Bungalow courts offered a sense of community, especially to the newly arrived immigrant. Socialization with neighbors was easy in the center courts. The layouts of the bungalow courts varied, as did the architectural style. “By grouping the cottages around the perimeter of a court, the central space rather than the isolated house became the dominant figure in the compositions. The regular arrangement also made the most efficient use of the available land, allowing many people to live comfortably on a parcel intended for a single family.”

The most common site arrangement was the “U” shape site layout with a landscaped center communal space. While other site arrangements included a single bar layout with all the units aligned featuring side yards. A variation on this included the double bar which had two rows of units with landscaping between.

Bungalow Courts Within San José

Like the rest of the Country, during the late 1920s and the Depression, San José struggled with meeting the housing needs of the growing population. Alternatives to a single-family house or an apartment building was the bungalow court. Built around a central communal area, the small individual housing units were generally rented rather than owned. Within the Burbank neighborhood several bungalow courts were constructed and still exist today: 24-26 Brooklyn Avenue (1927), 2015-2019 Olive Avenue (c1930), 12 Boston Avenue (1932) and 1530 West San Carlos (c1932). The extant bungalow courts within the Burbank neighborhood all exhibit Mission Revival architectural details to varying degrees. A review of the City of San José Historic Resources Inventory and select Sanborn Maps identified several other bungalow courts within the City: 365 South Fourth Street, 560 South Seventh Street, and 859 Villa Avenue. Refer to Appendix C for additional details on these bungalow courts.

3.5.1.3 *Existing Conditions*

Archaeological Resources

According to the General Plan Sensitivity Maps, the project site is not located within an area of high archaeological sensitivity. No known archaeological resources are located within or adjacent to the project site.

Historic Resources

The project site is made up of three parcels and is currently developed with three commercial buildings, eight single-family residences, and ancillary structures for these buildings. None of the buildings are currently listed on the NRHP, CRHR, nor the City’s Historic Resources Inventory. All buildings on-site are over 50 years old and were evaluated to determine if the structures qualify as potentially historic resources per the state and City’s significance criteria. A summary of each building’s architectural significance is described below. Refer to Appendix C for additional details.

Automotive Commercial Buildings (1544 West San Carlos Street / 306 South Buena Vista Avenue)

The western half of the project site is developed with two commercial buildings, two ancillary structures, and a garage.

1544 West San Carlos Street contains a one-story commercial building with no identifiable architectural style that was constructed in 1961, and two shed-like ancillary structures that were



added in 2018. The evaluation determined that the structures are not individually eligible for listing on the CRHR, or as a San José candidate City Landmark because the 1961 building's association with significant events (i.e., development and rise of auto-related businesses along West San Carlos Street) is not important in an individually significant way; the structures are not associated with persons of known historical significance; the 1961 building is of common construction and materials with no notable or special attributes and not representative of any architectural style; and the structures do not have potential to yield information important to the prehistory or history of the local area, state, or nation.

306 Buena Vista Avenue contains a one-story commercial modern style building with subtle Mission Revival influences, and a one-story garage. These buildings were constructed in 1933 and 1958, respectively. The commercial building was later expanded and altered in the 1960's.



The evaluation determined that the structures are not individually eligible for listing on the CRHR, or as a San José candidate City

Landmark because the 1933 commercial building was constructed before the significant events associated with the project area (i.e., development and rise of auto-related businesses along West San Carlos Street); the structures are not associated with persons of known historical significance; the commercial building is of common construction and materials and is not an exemplary representative of its commercial modern with subtle Mission Revival influences style, and it has been altered over the years; and the structures do not have potential to yield information important to the prehistory or history of the local area, state, or nation.

Refer to Appendix C for details on the evaluation for these buildings under the CRHR and City criteria.

Restaurant Commercial Building (1536 West San Carlos Street)

The northeastern portion of the project site contains a one-story flat-roof restaurant building with a faux mansard roof³¹ detail that was constructed in 1950.



The evaluation determined that the restaurant building is not individually eligible for listing on the CRHR, or as a San José candidate City Landmark because the building's association with significant events in the project area (i.e., the development and rise of auto-related businesses along West San Carlos Street) is not important in an individually significant way; the structures are not associated with persons of known historical significance; the building is of common construction and materials with no notable or special attributes and not an exemplary representative of its commercial modern style; and the structure do not have potential to yield information important to the prehistory or history of the local area, state, or nation. Refer to Appendix C for details on the evaluation for these buildings under the CRHR and City criteria.

Residential Buildings (1530 West San Carlos Street)

The southeastern portion of the project site contains a Craftsman style house, seven identical Spanish Revival bungalow units lining a central drive, and three one-story garages at the southern end of the site. The seven bungalow units and three garages create a horseshoe of buildings around the center drive. The bungalow units are referenced to as a bungalow court. The Craftsman style house northeast of the bungalow court was constructed in 1925, is larger than the other seven bungalow units, and features Craftsman detailing. Historic maps show the house is not in its original location, but was relocated south near the bungalow units in 1955 when the restaurant building was constructed. The seven bungalow units were constructed in 1932.

³¹ Mansard roof is a type of roof having two slopes on every side, the lower slope being considerably steeper than the upper.



The character-defining features of the craftsman style bungalow include the following:

- Asymmetrical design
- Decorative columns
- Partial-width porch
- Deep eave overhangs
- Paired, or grouped windows
- Low-pitched roof

The character-defining features of the bungalow court include the following:

- “U-shape” site layout
- Center court used for driving
- Smooth stucco cladding
- Decorative openings
- Asymmetrical design
- Double-hung windows
- Low-sloped roof
- Garden space

The evaluation determined that the residential buildings are not individually eligible for listing on the CRHR because while all buildings on the site are associated with development of the area, they are not associated with its history and growth in an individually significant way; the structures are not associated with persons of known historical significance; the building is of common construction and materials with no notable or special attributes and not an exemplary representative of its Craftsman and Spanish Revival style; and the structure do not have potential to yield information important to the prehistory or history of the local area, state, or nation. Refer to Appendix C for details on the evaluation for these buildings under the CRHR criteria.

While not eligible for listing on the CRHR, the Craftsman style house is eligible as a candidate City Landmark under criterion 6, and the bungalow court appears eligible as a candidate City Landmark under criteria 1, 6, and 8. The eligibility of the Craftsman style house and bungalow court are described below.

1. Its character, interest or value as part of the local, regional, state or national history, heritage or culture

The buildings were constructed during the early 20th century residential development of West San Carlos Street. The Craftsman style house does not appear to be important to San José's history

However, the bungalow court structures exhibit a trend in site development that occurred between 1910 and the 1940s in California. The bungalow court on-site is an intact example of a bungalow court constructed during the 1930s in San José. The bungalow court is a rare property type within San José which is eligible as a candidate City Landmark for its character, interest, and value as part of the local suburban landscape.

2. Its location as a site of a significant historic event

The buildings on-site are not linked specifically to any significant historic events.

3. Its identification with a person or persons who significantly contributed to the local, regional, state or national culture and history

There is no person of significance individually associated with the structures or property at 1530 West San Carlos Street.

4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José

While the property and its buildings are associated with the City's residential development in the early 20th century, the buildings are not important on a cultural, economic or social level within the City.

5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style

The buildings do not exhibit a particular architectural style that can be associated with a group of people during a particular period in history.

6. *Its embodiment of distinguishing characteristics of an architectural type or specimen*

Craftsman Style House: Within the City of San José, the building is an example of a single-family Craftsman style house. The house has many elements of the Craftsman style including wide eave overhangs, low-sloped roof, partial-width porch and large square columns. These characteristics of the Craftsman style emphasize the structure is from a particular period and highlights the use of contemporary materials for that period. The building is a well-executed example of a Craftsman style house within the City of San José. The structure is well constructed and exhibit thoughtful design. The Craftsman style house, with its decorative columns, embodies distinguishing characteristics of an architectural type that makes it eligible for listing as a candidate City Landmark.

Bungalow Court: Within the City of San José, the buildings are examples of a Spanish Revival style bungalow court. The bungalow court embodies many elements of the Spanish Revival style including smooth stucco clad walls, low-sloped roofs, decorative opening, and asymmetrical design. These characteristics of the Spanish Revival style emphasize the structures are from a particular period and highlight the use of contemporary materials for that period. The buildings are a well-executed example of a Spanish Revival style bungalow court. All structures on the site are well constructed and exhibit thoughtful design. The site composition of the bungalow court is that of a typical court. The bungalow court with its site layout (U-shape) and unifying architectural exterior design is the embodiment of a typical bungalow court of the period. Therefore, the bungalow court is eligible as a candidate City Landmark.

7. *Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José*

No architect, designer or builder has been identified for any of the structures at 1530 West San Carlos Street. The buildings do not appear to have influenced the development of the City of San José.

8. *Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represents a significant architectural innovation or which is unique.*

The large single-family house on the site, while designed in a Craftsman style, did not make use of architectural innovations, but rather used typical building materials and details of the time. Therefore, the Craftsman style house does not embody architectural details or design elements which are unique, and is not eligible as a candidate City Landmark under Criteria 8.

While the bungalow court made use of a standard site configuration for this type of property, its site layout is fairly unique in San José, and especially within the surrounding Burbank neighborhood. Within San José, the bungalow court on-site is one of the largest and one of the few where the center court is used as a driveway. Therefore, the bungalow court is eligible as a candidate City Landmark.

3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on cultural resources, a significant impact would occur if the project would:

Thresholds of Significance

- a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5;
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5;
- c) Disturb any human remains, including those interred outside of dedicated cemeteries.

3.5.2.1 *Project Impacts*

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

Under CEQA, a structure need not be listed on a national, state, or local register to qualify as a significant resource. A structure is considered a significant resource under CEQA if it is found to be *eligible for inclusion* on a national, state, or local register. Furthermore, a prized architectural style or appealing aesthetic is not the sole determining factor in the historical significance of a structure, as structures can also be significant for association with important persons or events. Public opinions on what is visually appealing or architecturally important change over time, so a structure's aesthetic value may not be appreciated by modern standards. That does not, however, preclude it from being eligible for listing as a historic resource.

Demolition of Structures On-Site

The project proposes to remove all buildings and improvements on-site in order to construct the proposed development. As described above, the Craftsman style house and bungalow court on-site are eligible as candidate City Landmarks under the City's criteria for local significance. As a result, demolition of these buildings would be a significant impact.

Any development approvals that include demolition of a structure eligible for or listed on the Historic Resources Inventory shall be required to salvage the resource's building materials, and architectural elements to allow re-use of those elements and materials and avoid the energy costs of producing new and disposing of old building materials (General Plan Policy LU-16.4).

Impact CUL-1: Implementation of the proposed project would result in the demolition of the Craftsman style house and the seven Spanish-style bungalows on-site that are eligible candidate City Landmarks.

Mitigation Measure:

MM CUL-1.1: The project applicant shall implement the following measures prior to issuance of any demolition permits for the Craftsman style house and seven Spanish Revival style bungalow units on-site.

Documentation: The structures shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:

1. Drawings – Prepare sketch floor plans.
2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years.
3. Written Data – HABS written documentation in short form.

This documentation shall be prepared by a professional historic resources consultant who meets the Secretary of Interior's Professional Qualifications Standards. The report shall be deposited with History San José and a copy provided to the City's Planning Division as well as filed with the Northwest Information Center, Sonoma State University.

Relocation by a Third Party: The structures shall be advertised for relocation by a third party. The project applicant shall advertise the availability of the structure for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site and must be reviewed by the City's Historic Preservation Officer or Environmental Review Supervising Planner prior to circulation. The project applicant shall provide evidence to City staff that this condition has been met prior to the issuance of any demolition permits.

If a third party does agree to relocate one or more of the structures the following measures must be followed:

1. The City's Director of Planning, Building and Code Enforcement, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site(s) are suitable for the building(s).
2. Prior to relocation, a historic preservation architect and a structural engineer shall undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the buildings prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City of San José prior to the structures being moved. Documentation already completed will be used to the extent possible to avoid repetition in work.
3. To protect the buildings during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer will also be engaged to determine if the buildings need to be reinforced/stabilized before the move.
4. The project applicant shall offer financial assistance for the relocation that is equal to a reasonable cost of demolition of the structure(s).
5. Once moved, the building shall be repaired and restored, as needed, in conformance with the *Secretary of the Interior's Standards for the*

Treatment of Historic Properties. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure(s) were completed in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and that all character-defining features were preserved and submit a memo report to the Director of Planning, Building and Code Enforcement or Director's designee, and the Historic Preservation Officer.

Salvage: If no third party relocates the structure(s), the structure(s) shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the City San José Department of Planning, Building and Code Enforcement. The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or Director's designee, and the Historic Preservation Officer that this condition has been met prior to the issuance of demolition permits.

While implementation of the mitigation measure MM CUL-1.1 would document the historic resources and salvage or relocate the residential buildings, it cannot reduce the significant cultural resources impact to a less than significant level, and the impact would be significant and unavoidable. Please refer to Section 7.0 Alternatives for a project design alternative that may avoid or substantially lessen the impact. **(Significant Unavoidable Impact with Mitigation Incorporated)**

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

The project proposes to excavate up to approximately 14 feet below grade during construction. Although the site is not located within an area of high archaeological sensitivity, and there are no known archaeological sites within or adjacent to the project site, there is the potential for discovery of unknown archaeological materials. Therefore, the following Standard Permit Conditions is included as a condition of approval.

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 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.

Implementation of the above Standard Permit Condition would ensure that the project would not have a significant impact on buried archaeological resources. **(Less than Significant Impact)**

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

The project site is not located on or near a known archaeological site or cemetery. Although the likelihood of encountering human remains is low, the disturbance of these remains, if they are encountered during construction, would be a significant impact. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition:

- Human Remains: If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - 1) 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;
 - 2) The MLD identified fails to make a recommendation; or
 - 3) The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Implementation of the above Standard Permit Condition would reduce and/or avoid impacts to unknown human remains to a less than significant level. **(Less than Significant Impact)**

3.5.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cultural resources impact?

Historic Resources

The geographic area for cumulative cultural resources impacts is the City. As discussed in Section 3.5.1.2 Historic Context, there are three other bungalow courts remaining within the Burbank Neighborhood. Outside of the neighborhood, there are three additional bungalow courts within the City.

Impact CUL(C)-1: Implementation of the proposed project would result in a cumulatively considerable contribution to a significant cultural resources impact to the remaining Craftsman style houses and bungalow courts in the City.

Mitigation Measure:

MM CUL(C)-1: See mitigation measure MM CUL-1.1.

Demolition of the residential buildings would result in a significant unavoidable impact to the historic cultural resources. Based on the remaining bungalows existing in the City (seven total including the one on-site), the removal of one bungalow court is considered a cumulatively considerable contribution to a cultural resources impact, even with implementation of mitigation measure MM CUL-1.1. **(Significant Unavoidable Cumulative Impact with Mitigation Incorporated)**

Archaeological Resources and Human Remains

The geographic area for cumulative impacts to archaeological resources for the proposed project is the project site and adjacent parcels because it is assumed the surrounding projects would affect similar archaeological resources and human remains. The development of cumulative projects in proximity to the project site, in conjunction with the development of the proposed project, could significantly impact unknown buried archaeological resources. Each development project, however, is subject to federal, state, and local regulations (NRHP, CRHR, California Public Resources Code, California Code of Regulations [Title 14 Section 1427], California Health and Safety Code, California Public Resources Code [Section 5097.5], AB 52, SB 18, CEQA, and San José General Plan policies) put in place to protect cultural resources. The proposed project shall comply with applicable regulations and implement the Standard Permit Conditions listed above to avoid and/or minimize impacts to subsurface cultural resources and human remains to a less than significant level. For these reasons, the project would not have a cumulatively considerable contribution to a significant cumulative buried cultural resources impacts. **(Less than Significant Cumulative Impact)**

3.6 ENERGY

3.6.1 Environmental Setting

3.6.1.1 *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, and the 2016 Title 24 updates went into effect on January 1, 2017.³² Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.³³

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. The most recent update to CALGreen went into effect on January 1, 2017, and covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

³² California Building Standards Commission. "Welcome to the California Building Standards Commission." Accessed December 12, 2018. <http://www.bsc.ca.gov/>.

³³ California Energy Commission (CEC). "2016 Building Energy Efficiency Standards." Accessed December 12, 2019. <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2016-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.³⁴

Local

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); a Construction and Demolition Diversion Deposit Program that fosters recycling of construction and demolition materials (Chapter 9.10); and an Energy and water Building Performance Ordinance (Section 17.85.100 of Chapter 17) that provides criteria for energy and water efficiency measures and a process for benchmarking and auditing.

Private Sector Green Building Policy (6-32)

The City of San José sets green building standards for municipal development. All projects are required to submit a LEED³⁵, GreenPoint³⁶, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in 3.6-1 below.

Table 3.6-1: Private Sector Green Building Policy Applicable Projects	
Applicable Project*	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

³⁴ California Air Resources Board. "The Advanced Clean Cars Program." Accessed December 12, 2019. <https://www.arb.ca.gov/msprog/acc/acc.htm>.

³⁵ Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

³⁶ Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

Notes: *For mixed-use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard.

Source: City of San José. “Private Sector Green Building.” Accessed July 23, 2019. Available at: <https://www.sanjoseca.gov/home/showdocument?id=12809>

3.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available.³⁷ Out of the 50 states, California is ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.³⁸ This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 GWh of electricity was consumed in Santa Clara County.³⁹

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 from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California’s natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.⁴⁰ 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.⁴¹ PG&E provides natural gas services within the City of San José.

³⁷ United States Energy Information Administration. “State Profile and Energy Estimates, 2017.” Accessed August 1, 2019. <https://www.eia.gov/state/?sid=CA#tabs-2>.

³⁸ United States Energy Information Administration. “State Profile and Energy Estimates, 2017.” Accessed August 1, 2019. <https://www.eia.gov/state/?sid=CA#tabs-2>.

³⁹ California Energy Commission. Energy Consumption Data Management System. “Electricity Consumption by County.” Accessed March 15, 2019. <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

⁴⁰ California Gas and Electric Utilities. 2019 *California Gas Report*. Accessed August 27, 2019.

https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.

⁴¹ California Energy Commission. “Natural Gas Consumption by County.” Accessed February 21, 2019. <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

Fuel for Motor Vehicles

In 2017, 15 billion gallons of gasoline were sold in California.⁴² 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 2018.⁴³ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.⁴⁴

Energy Use of Existing Development

The project site is currently developed with two automobile commercial buildings, a restaurant, and eight single-family residences. Operation of the existing development uses gasoline for motor vehicles traveling to and from the site, and electricity and natural gas usage for lighting, heating, and cooling of the buildings. The estimated annual energy use of the existing development is summarized in Table 3.6-2.

Table 3.6-2: Estimated Annual Energy Use of Existing Development		
Electricity (kWh)	Natural Gas (kBtu)	Gasoline (gallons)
182,510.8	841,305	8,230
Note: the estimated gasoline demand is based on the estimated VMT of 204,935, and an average fuel economy of 24.9 mpg. kWh = kilowatt per hour kBtu = kilo-British thermal unit Source: Illingworth & Rodkin, Inc. <i>1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment</i> . March 26, 2020.		

3.6.2 Impact Discussion

For the purpose of determining the significance of the project's impact on energy, a significant impact would occur if the project would:

Thresholds of Significance

- Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction or operation;
- Conflict with or obstruct a state or local plan for renewable energy or energy efficiency;
- Result in a substantial increase in demand upon energy resources in relation to projected

⁴² California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed December 12, 2019. <http://www.cdtfa.ca.gov/taxes-and-fees/MVF-10-Year-Report.pdf>.

⁴³ United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

⁴⁴ United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed December 12, 2019. <http://www.afdc.energy.gov/laws/eisa>.

supplies.

3.6.2.1 *Project Impacts*

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

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

Construction

The total project construction period would be approximately 48 months, estimated to start in June 2020 and finishing in June 2024.⁴⁵ Energy is consumed during the construction period from demolition, site preparation, grading and excavation, trenching, and paving; however, the project would not waste or use energy inefficiently. Construction processes are generally designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, as well as maintenance and fuel. Project development in urbanized areas with proximity to roadways, construction supplies, and workers is already more efficient than construction occurring in outlying, undeveloped areas. In addition, the project includes several measures that would improve the efficiency of the construction process. The proposed project would participate in the City's recycle construction and demolition materials program, restrict equipment idling times to five minutes or less and require the applicant to post signs on the project site reminding workers to shut off idle equipment (see Standard Permit Conditions above), and use construction equipment with higher energy efficiency (see mitigation measure MM AQ-1.1). **(Less than Significant Impact)**

Operation

Occupation and operation of the project would consume energy for multiple purposes, including building heating and cooling, lighting, and appliance use. Operational energy would also be consumed by resident, employee, and customer vehicle use to and from the project site. The net increase in energy use of the proposed project compared to existing uses is summarized in Table 3.6-3.

Table 3.6-3: Estimated Annual Energy Use of Existing and Proposed Development			
Uses	Electricity (kWh)	Natural Gas (kBtu)	Gasoline (gallons)

⁴⁵ The project originally assumed a construction start time of June 2020, which is the year the air quality and GHG analysis relied upon to model emissions. Since the project has progressed, the estimated start time has been updated to June 2021. While it is acknowledged the construction start time is shifted to a later time, the construction start time in the air quality model was kept as is for a more conservative analysis. The air quality/GHG model accounts for cleaner construction equipment and building operational efficiency emissions as the construction and operational years increase, therefore, using the earlier estimated construction and operational start time than the actual later start time is a more conservative analysis. Source: Divine, Casey. Illingworth & Rodkin, Inc. Personal Communication. December 15, 2020.

A. Existing Uses	182,511	841,305	8,230
B. Proposed Uses	1,398,955	1,551,625	180,261
<i>Project Net Increase (B – A)</i>	<i>+1,216,444</i>	<i>+710,320</i>	<i>+172,031</i>
<p>Note: the estimated gasoline demand is based on the estimated VMT of 204,935 for existing uses and 4,488,496 for the project, and an average fuel economy of 24.9 mpg.</p> <p>kWh = kilowatt per hour</p> <p>kBtu = kilo-British thermal unit</p> <p>Source: Illingworth & Rodkin, Inc. <i>1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment</i>. March 26, 2020.</p>			

As shown in Table 3.6-3, the project would result in a net increase in energy demand compared to existing conditions. The project, however, would not represent a wasteful or inefficient use of energy resources because the project is required to comply with the Title 24 and CALGreen requirements to reduce energy consumption. The proposed project would be built to achieve LEED certification consistent with Council Policy 6-32.⁴⁶ In addition, the project would be required to finalize and implement a TDM plan for the proposed 43.5 percent parking reduction. The TDM Plan would include measures such as having an online kiosk with non-auto transportation alternatives, unbundled parking for all residential paces, transit subsidies, and adequate bicycle parking, incentivizing the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. For these reasons, the project would not result in a wasteful use in energy or conflict with state or local plans for renewable energy or energy efficiency. **(Less than Significant Impact)**

c) Would the project result in a substantial increase in demand upon energy resources in relation to projected supplies?

As summarized in Table 3.6-3, the project would increase electricity use by 1,216,444 kWh per year, natural gas use by 710,320 kBtu per year, and annual gasoline use by 172,031 gallons per year.

The energy use increase is likely overstated because the estimates do not take into account the efficiency measures that would be incorporated into the project. The project would be built to the most recent CALGreen requirements, Title 24 energy efficiency standards, and be LEED certified, which would improve the efficiency of the overall project.

California's total system electric generation in 2018 was approximately 285,490 gigawatt-hours GWh, which was down 2.3 percent from 2017's total generation of approximately 292,083 GWh.⁴⁷ The project would increase annual electricity use by approximately 1,216,444 kWh (or 1.2 GWh), which is a 0.0004 percent increase in the state's annual use. This would not have a substantial effect on the state's electricity supply.

⁴⁶ Verification is done by submitting documents from the U.S. Green Building Council stating that the completed project has achieved the required level of certification, prior to issuance of building permit.

⁴⁷ California Energy Commission. "California Electrical Energy Generation." Accessed September 27, 2019. https://ww2.energy.ca.gov/almanac/electricity_data/electricity_generation.html.

In 2017, California consumed approximately 2,110,829,000 MMBtu of natural gas.⁴⁸ The project would increase annual natural gas use by approximately 710,320 kBtu (or 710.32 MMBtu), which is a 0.00003 percent increase in the state's annual use. This would not have a substantial effect on the state's natural gas supply. **(Less than Significant Impact)**

3.6.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant energy impact?

Energy is a cumulative resource. The geographic area for cumulative energy impacts is the state. Past, present, and future development projects contribute to the state's energy impacts. If the project is determined to have a significant energy impact, it is concluded that the impact is a cumulative impact. As discussed above, the project would not result in significant energy impacts, conflict or obstruct with a state or local plan for energy efficiency, or result in a substantial increase in demand upon energy resources in relation to projected supplies. Therefore, the project would not have a cumulatively considerable contribution to a significant cumulative energy impact. **(Less than Significant Cumulative Impact)**

⁴⁸ United States Energy Information Administration. "Natural Gas, 2018." Accessed September 17, 2019. https://www.eia.gov/dnav/ng/ng_cons_sum_dcu_SCA_a.htm.

3.7 GEOLOGY AND SOILS

3.7.1 Environmental Setting

3.7.1.1 *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 California Building Standards Code (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; the current version is the 2016 CBC.

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The proposed project would be subject to the geology and soil policies listed in the City's General Plan, including the following:

Envision San José 2040 General Plan Relevant Geology and Soil Policies	
Policy	Description
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled 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.
Policy EC-4.2	Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current 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 17.10 (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.

3.7.1.2 Existing Conditions

Topography and On-Site Soils

The City of San José is located in the eastern portion of the Santa Clara Valley. The Santa Clara Valley, an alluvial basin, is oriented northwest to southeast and is bounded by the Santa Cruz Mountains to the west and the Hamilton/Diablo Range to the east. The project site is relatively flat; thus, the potential for land sliding and erosion to effect the site is considered negligible. According to the California Department of Conservation's Web Soil Survey, soils on-site are moderately expansive.⁴⁹ The depth to groundwater on the project site is approximately 28-53 feet below grade.⁵⁰

Seismicity and Seismic Hazards

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. Major faults in the area include the San Andreas Fault to the west and the Hayward and Calaveras Faults to the east. During an earthquake, very strong ground shaking could occur at the project site.

The project site is not located within an Alquist-Priolo Special Studies Zone or Santa Clara County Fault Rupture Hazard Zone.^{51,52} There are no known faults at the project site. Therefore, ground rupture on the site is unlikely.

⁴⁹ United States Department of Agriculture. "Web Soil Survey." Accessed March 19, 2019. Available at: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.

⁵⁰ AEI Consultants. *Phase I Environmental Site Assessment, 1530-1536 West San Carlos Street*. December 10, 2019 Page 13. Note that depth and gradient of the water table can change seasonably in response to variation in precipitation and recharge, and over time, in response to urban development such as storm water controls, impervious surfaces, cleanup activities, and dewatering.

⁵¹ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

⁵² Santa Clara County Department of Planning and Development. *Santa Clara County Geologic Hazard Zones*. October 26, 2012.

Liquefaction and Lateral Spreading

Liquefaction is a seismic hazard and is characterized as the temporary transformation of soils to a liquid state during ground shaking. Lateral spreading, typically associated with liquefaction, is horizontal ground movement of flat-lying soil deposits toward a free face such as an excavation, channel, or open body of water.

The project site is not within a State of California Seismic Hazard Zone for liquefaction. There is no known history of liquefaction-induced damage at the site.⁵³ The project site is located approximately 0.8 miles west of the Los Gatos Creek riparian corridor. There is no known history of lateral spreading damage at the site.

Landslides

The project site is located within the relatively flat Santa Clara Valley. The project site is not located within a State of California Seismic Hazard Zone for earthquake-induced landslides.⁵⁴

3.7.2 Impact Discussion

For the purpose of determining the significance of the project's impact on geology and soils, a significant impact would occur if the project would:

Thresholds of Significance

- a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42);
 - Strong seismic ground shaking;
 - Seismic-related ground failure, including liquefaction;
 - Landslides;
- b) Result in substantial soil erosion or the loss of topsoil;
- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse;
- d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property;
- e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water

⁵³ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

⁵⁴ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

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

3.7.2.1 *Project Impacts*

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

- b) **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?**
-

Fault Rupture

As described above, the project site is not located within an Alquist-Priolo Earthquake Fault Zone or a Santa Clara County Fault Rupture Hazard Zone. No known surface expression of active faults is known to cross the site.^{55,56} Fault rupture through the site, therefore, is low **(Less than Significant Impact)**

Seismic Ground Shaking

The project site is located within the seismically active San Francisco Bay region. The faults in this region are capable of generating earthquakes of magnitude 7.0 or higher. Major faults in the area include the San Andreas Fault to the west and the Hayward and Calaveras Faults to the east. During an earthquake, very strong ground shaking could occur at the project site.

In accordance with the City's General Plan and Municipal Code, and to avoid or minimize potential damage from seismic shaking, the proposed development would be built using standard engineering and seismic safety design techniques. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

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

⁵⁵ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

⁵⁶ Santa Clara County Department of Planning and Development. *Santa Clara County Geologic Hazard Zones*. October 26, 2012.

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.

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

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

Landslides

The project site is not located within a landslide hazard zone.⁵⁷ The project site is relatively flat, and is not located in the vicinity of any slope that could be affected by a landslide. **(No Impact)**

Liquefaction

The project site is not located within a liquefaction zone.⁵⁸ The project, with implementation of the above Standard Permit Condition, would not expose people or structures to substantial adverse effects due to liquefaction. **(Less than Significant Impact)**

Lateral Spreading

Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying soil toward an open or “free” face such as an open body of water, channel, or excavation. This movement is often associated with liquefaction. The site is not located within a liquefaction zone⁵⁹ and is not in proximity to an open face, such as the Los Gatos Creek Corridor; therefore, the potential for lateral spreading is low. **(Less than Significant Impact)**

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

⁵⁷ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

⁵⁸ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

⁵⁹ California Geological Survey. *Earthquake Zones of Required Investigation – San José West Quadrangle*. February 2, 2002.

The City's National Pollutant Discharge Elimination System (NPDES) General Permit, urban runoff policies, and the Municipal Code (refer to Section 3.10 Hydrology and Water Quality) are the primary means of enforcing erosion control measures through the grading and building permit process. 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.

(Less than Significant Impact)

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

Expansive soils are common in the San Francisco Bay Area. Expansive soils on the project site could create risks to life or property. Soils on-site are moderately expansive.⁶⁰ 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.

(Less than Significant Impact)

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

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

⁶⁰ United States Department of Agriculture. "Web Soil Survey." Accessed March 19, 2019. Available at: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.

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

The project site is located in an area of high paleontological sensitivity at depth, but not of high sensitivity at the ground surface.⁶¹ Soils on the project site has been previously disturbed during construction of the existing buildings.

Construction activities associated with the proposed project could significantly impact paleontological resources, if they are encountered. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: The following measures shall be applied to development of the project site to reduce and/or avoid impacts to paleontological resources:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include 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 professional paleontologist.

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

3.7.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant geology and soils impact?

As discussed above, the existing geology and soils conditions would not be exacerbated by the proposed project such that it would impact (or worsen) on- or off-site geology and soils conditions. For this reason, the proposed project would not contribute to a cumulatively significant geology and soils impact. **(Less than Significant Cumulative Impact)**

⁶¹ City of San José. *Envision San José 2040 General Plan Integrated Final Environmental Impact Report*. Figure 3.11-1. September 2011.

3.8 GREENHOUSE GAS EMISSIONS

This discussion is based, in part, on the Air Quality & Greenhouse Gas Assessment prepared by Illingworth & Rodkin, Inc. on March 26, 2020. This report is included in this EIR as Appendix B.⁶²

3.8.1 Environmental Setting

3.8.1.1 *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 CO₂ equivalents (CO₂e). The most common GHGs are carbon dioxide (CO₂) and water vapor but there are also several others, most importantly methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO₂ and N₂O are byproducts of fossil fuel combustion.
- N₂O is associated with agricultural operations such as fertilization of crops.
- CH₄ 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 SF₆ 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.

⁶² Since completion of the Air Quality & Greenhouse Gas Assessment, the size of the project was reduced. The total residential units were reduced from 174 to 173 units, the total commercial development was reduced from 19,600 to 17,836 square feet. The parking was reduced from 199 spaces to 189 spaces. The slight decrease in development would result in either marginally decreased air quality emissions, GHG emissions, and community risks from construction or have very similar results. The significance and mitigation measures described within the report would remain the same.

3.8.1.2 *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 CO₂E (MMTCO₂e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO₂e.

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).

Executive Order B-55-18

In September 2018, Governor Brown signed EO B-55-18, which established a new statewide goal “to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter.”

Clean Cars Program

In January 2012, CARB approved the Advanced Clean Cars Program, which established an emissions control program for cars and light-duty trucks (such as SUVs, pickup trucks, and minivans) of model years 2017-2025. When the program is fully implemented, new vehicles will emit 75 percent less smog-forming pollutants than the average new car sold today, and GHG emissions will be reduced by nearly 35 percent. The program also requires car manufacturers to offer

for sale an increasing number of zero-emission vehicles (ZEVs) each year, including battery electric, fuel cell, and plug-in hybrid electric vehicles

Regional

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

Local

General Plan and Greenhouse Gas Reduction Strategy

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

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

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

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies	
Policy	Description
Policy MS-1.1	Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City's Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction.

Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy 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.
Action MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
Policy MS-14.4	Implement the City's Green Building Policies (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, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy 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.
Policy CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
Policy 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.
Policy 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.

City of San José Municipal Code

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

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

Private Sector Green Building Policy (6-32)

The City of San José sets green building standards for municipal development. All projects are required to submit a LEED⁶³, GreenPoint⁶⁴, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in 3.6-1 below.

Table 3.8-1: Private Sector Green Building Policy Applicable Projects	
Applicable Project*	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified
Notes: *For mixed-use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard. Source: City of San José. “Private Sector Green Building.” Accessed July 23, 2019. Available at: http://www.sanjoseca.gov/index.aspx?NID=3284 .	

3.8.1.3 *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.

⁶³ Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

⁶⁴ Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

The project site is currently developed with three commercial buildings and eight single-family residences. Operation of these buildings generate GHG emissions from vehicles traveling to and from the site, and electricity and natural gas usage for lighting, heating and cooling of the buildings. It is estimated the existing uses generate 176 metric tons (MT) of CO₂e annually.⁶⁵ Additionally, the project site is located within a Metropolitan Transportation Commission PDA.⁶⁶

3.8.2 Impact Discussion

For the purpose of determining the significance of the project's impact on greenhouse gas emissions, a significant impact would occur if the project would:

Thresholds of Significance

- a) Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment;
- b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs.

As described previously, BAAQMD adopted thresholds of significance to assist in the review of projects under CEQA. These thresholds were designed to establish the level at which BAAQMD has determined that GHG emissions would cause significant environmental impacts. The significance thresholds identified by BAAQMD are 1,100 MT of CO₂e per year OR 4.6 MT CO₂e per service population (on-site residents and employees) per year. In addition, a project that is in compliance with the City's Climate Action Plan (a qualified GHG Reduction Strategy) is considered to have a less than significant GHG impact.

The numeric thresholds set by BAAQMD were calculated to achieve the state's 2020 target of 1990 GHG levels. The project is anticipated to take approximately four years to complete, starting in 2020 and finishing in 2024. The project, therefore, would be fully constructed and occupied by 2025.

The state has completed a Scoping Plan which will be utilized by BAAQMD to establish the 2030 efficiency threshold. The efficiency threshold would need to be met by individual projects in order for state and local governments to comply with the SB 32 2030 reduction target. At this time BAAQMD has not published a quantified threshold for 2030. For the purposes of this analysis, however, a Substantial Progress efficiency metric of 2.6 MT CO₂e/year/service population has been calculated for 2030 based on the GHG reduction goals of Senate Bill 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels.

⁶⁵ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020.

⁶⁶ City of San José. "Priority Development Areas." Accessed September 27, 2019.
<https://www.sanjoseca.gov/index.aspx?NID=2041>.

3.8.2.1 *Project Impacts*

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

Construction

Short-term GHG emissions from the construction phase of the project would consist of primarily heavy equipment exhaust, worker travel, materials delivery, and solid waste disposal. Neither the City of San José nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions; however, BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. It is estimated that construction of the project would generate a total of approximately 1,007 MT of CO₂e.

Because construction would be temporary (approximately 48 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32 or SB 32. **(Less than Significant Impact)**

Operation

It is estimated that the project would be completed in year 2024 and fully operational by 2025. Table 3.8-2 summarizes the project's estimated operational year 2025 and 2030 emissions and includes area emissions, energy-related emissions, mobile emissions from vehicles traveling to and from the sites, and emissions from solid waste generation and water usage. Refer to Appendix B for modeling details, data inputs, and assumptions.

Table 3.8-2: Annual Existing and Project GHG Emissions (MT of CO₂e)		
Source Category	Existing Land Use in 2025	Proposed Project in 2025
Area	1	9
Energy Consumption	69	269
Mobile	73	757
Solid Waste Generation	29	51
Water Usage	4	21
Total (MT CO ₂ e/year)	176	1,107
Net Emissions	---	931 MT CO ₂ e/year
Service Population Emissions (MT CO ₂ e/year/service population)	---	1.5
<i>Significance Threshold</i>	---	2.6
<i>Significant (Exceeds both thresholds)?</i>	---	No

Note: The service population emissions were calculated assuming a service population of 614 individuals (554 residents and 60 employees, refer to Section 3.14 Population and Housing).

Source: Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020.

As shown in Table 3.8-3, the project's net emissions would exceed the 2030 "bright-line" threshold of 660 MT of CO₂e per year; however, would not exceed the service population significance threshold of 2.6 CO₂e per year per service population; therefore, the project would have a less than significant operational GHG emissions impact. **(Less than Significant Impact)**

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

As discussed above, the project's construction and operational GHG emissions would not conflict with AB 32 or SB 32. The project site is located within a PDA and is consistent with Plan Bay Area 2040 by developing compact, high-density, mixed-use near transit, which reduces GHG emissions. The project would also implement a TDM program to reduce its parking demand, which would incentivize the use of alternative methods of transportation to and from the site. As discussed in Section 3.3 Air Quality, the project is consistent with the 2017 CAP. In addition, the project would reduce energy and water consumption by complying with Title 24, CALGreen, and City Council Policy 6-32 by achieving LEED certification, which in turn, would reduce GHG emissions associated with conveying these resources. **(Less than Significant Impact)**

3.8.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a GHG emissions impact?

As discussed in Section 3.8.1, GHG emissions have a broader, global impact; therefore, if a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable. As discussed above, the project would not result in significant GHG impacts; therefore, the project would not have a cumulatively considerable contribution to a significant cumulative GHG emissions impact. **(Less than Significant Cumulative Impact)**

3.9 HAZARDS AND HAZARDOUS MATERIALS

The discussion in this section is based in part on a Phase I Environmental Site Assessment (ESA) prepared by AEI Consultants on December 10, 2019 (for 1530 & 1536 West San Carlos Street), and a Phase I ESA and Phase II Subsurface Investigation Report prepared by Partner Engineering and Science, Inc. On June 19, 2019 and July 25, 2019, respectively (for 1544 West San Carlos Street/306 South Buena Vista Avenue). These reports are included in this EIR as Appendix D, Appendix E and Appendix F.

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Federal and State

Hazardous Materials 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 (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). 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. The 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.

Cortese List

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), State Water Resources Control Board (SWRCB), and Santa Clara County.

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 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 County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials and Lead-Based Paint

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

The U.S. Consumer Product Safety Commission banned the use of lead-based paint (LBP) in 1978. Removal of older structures with LBP is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 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.

Federal Aviation Administration Regulations

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 ground. For the project site, any proposed structure of a height greater than approximately 155 feet above mean sea level (MSL), or 35 feet above ground level (AGL) is required to be submitted to the FAA for review (under FAR Part 77). At a proposed maximum height of 92 feet above ground (to the highest point of architectural element), the project would require review by the FAA.

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

The Norman Y. Mineta San José International Airport is located approximately two miles from the project site. Development within the Airport Influence Area (AIA) can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and State regulations as well as in land use regulations and policies in the Airport Comprehensive Land Use Plan (CLUP). The project site is not located within the AIA nor the safety zones designated by the CLUP.⁶⁷

Envision San José 2040 General Plan

In addition to the above regulations, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from

⁶⁷ Santa Clara County Airport Land Use Commission. *Norman Y. Mineta San José International Airport Comprehensive Land Use Plan*. Figure 8.

planned development within the City. The proposed project would be subject to the hazards and hazardous materials policies of the City's General Plan, including the following:

Envision San José 2040 General Plan Relevant Hazardous Materials Policies	
Policy	Description
Policy EC-6.6	Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.
Action EC-6.8	The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
Policy EC-7.4	In 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.
Policy EC-7.5	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Policy EC-7.8	Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Policy EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

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

3.9.1.2 *Existing Conditions*

The project site is currently developed with three commercial buildings and eight single-family residences and associated ancillary buildings. The site is bounded by West San Carlos Street and multi-family residential uses to the north, commercial and single-family residential uses to the east, single- and multi-family residential uses to the west, and single-family residential uses to the south.

Site History

1530 & 1536 West San Carlos Street

This portion of the site was occupied by a residence and vacant land by 1915. By 1925, the existing Craftsman style house was developed. The seven identical bungalows were constructed in 1932. The commercial building was later constructed in 1950. Based on the age of the existing buildings, the buildings likely contain ACM and LBP.

This portion of the project site is not on the Cortese List.⁶⁸ The Phase I ESA did not identify evidence of Recognized Environmental Condition (REC)⁶⁹, Controlled Recognized Environmental Condition (CREC)⁷⁰, or Historical Recognized Environmental Condition (HREC).⁷¹

1544 West San Carlos Street / 306 South Buena Vista Avenue

This portion of the site was occupied by residential uses from 1915 to 1950, and then developed with commercial uses since the 1950s, with the existing structures constructed in 1963. Since the 1950s, the site has been occupied by automobile commercial uses. The Phase I ESA identified one REC. Based on records provided by the Santa Clara County Department of Environmental Health, a 550-gallon underground storage tank (UST) was located on-site. The facility closure record indicated the site was filled with concrete slurry. A geophysical survey and the advancement of three borings were completed as part of the Phase II Subsurface Investigation to identify the presence and location of the

⁶⁸ CalEPA. “Cortese List Data Resources”. Accessed: April 2, 2019. Available at: <https://calepa.ca.gov/sitecleanup/corteselist>.

⁶⁹ REC refers to the presence or likely presence of any hazardous substances or petroleum projects in, on, or at a property; due to release to the environment; under conditions indicative of a release to the environment; or under conditions that pose a material threat of a future release to the environment.

⁷⁰ CREC refers to a REC resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls.

⁷¹ HREC refers to a past release of any hazardous substances or petroleum products that has occurred in connection with the property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls.

UST. The geophysical survey did not identify any anomalies consistent with a backfilled excavation, and no signs of USTs were identified in the survey area.

This portion of the site was identified as a Certified Unified Protection Agency (CUPA) listing⁷² and a Resource Conservation and Recovery Act – NonGenerator/No Longer Regulated site⁷³ in the regulatory databased. The site is not listed on the Cortese List.⁷⁴ Three soil samples were analyzed as part of the Phase II Subsurface Investigation to evaluate potential for carbon chain total petroleum hydrocarbons (TPH-cc) and for volatile organic compounds (VOCs) presence in the soil. Sampling was conducted in accordance with EPA Method 8015B.. Sampling results show that levels of TPH-cc and VOCs were below the applicable environmental screening levels (ESLs). Based on the results, there is no evidence of petroleum hydrocarbon or VOC impacts to soil beneath the subject property as a result of the former on-site UST.⁷⁵ Refer to Appendix F for additional details about sampling locations, methods, and results.

Based on the age of the existing buildings, the buildings likely contain ACM and LBP.

Off-Site Sources of Contamination

According to the Phase I ESA prepared by Partners Engineering, groundwater flow is to the southeast, and a review of the regulatory database identifies three potential off-site sources of contamination. These off-site sources are discussed below.

1531 & 1537 West San Carlos Street

The addresses, identified as Foreign & Domestic Auto Repair and Meineke Muffler at 1531 & 1537 West San Carlos Street are located north of the site, across West San Carlos Street, and were identified as facilities that generated hazardous wastes. No release of hazardous materials were documented. These two facilities have been closed and the site has been redeveloped with senior living apartments. This site is hydrologically up-gradient; however, based on the regulatory oversight, lack of documented releases or spills, the site is not expected to pose an environmental concern.⁷⁶

1555-1557 West San Carlos Street

The addresses, identified as Sam Bowman Chevron, NB Auto Repair, Kar Mart Auto Service, Mitar Motors, and Kens Brake & Wheel at 1555-1557 West San Carlos Street are located northwest of the project site, and was previously occupied by a gas station from at least 1940 to 1974 and an automotive repair shop from 1955 to 2005. The site is hydrologically up-gradient; however, based on

⁷² Identified as a waste oil only generator.

⁷³ Identified as a hazardous materials handler that does not generate hazardous waste.

⁷⁴ CalEPA. "Cortese List Data Resources". Accessed: October 9, 2019. Available at:

<https://calepa.ca.gov/sitecleanup/corteselist>.

⁷⁵ Partner Engineering and Science, Inc. *Phase II Subsurface Investigation Report 1544 W. San Carlos Street*. July 25, 2019. Page 6.

⁷⁶ (1) AEI Consultants. *Phase I Environmental Site Assessment*. December 10, 2019. Page 23. (2) Partner Engineering and Science, Inc. *Phase I Environmental Site Assessment Report*. June 19, 2019. Page 17.

regulatory oversight and lack of documented releases or spills, the site would not pose an environmental concern.⁷⁷

1585 West San Carlos Street

Identified with numerous auto repair businesses, 1585 West San Carlos Street is located northwest of the site and was previously occupied by a gas station from at least 1930 to 1950, and an automotive repair shop from 1955 to 2006. According to the database search, the property was a small quantity generator in 1996 and ceased in 2004. Wastes generated included benzene. According to records reviewed, two 1,000-gallon diesel USTs and one 500-gallon diesel UST were removed on January 20, 2003. Regulatory closure was granted in 2005. The site is hydrologically up gradient; however, based on regulatory oversight and closure, and removal of USTs, this site is not expected to pose an environmental concern.⁷⁸

Based on the above findings, vapor migration does not represent a significant environmental concern.

Historic Railroad Tracks

Based on review of a 1915 Sanborn map, the “Peninsula Railroad Company right-of-way” was located adjacent to the northern boundary of the site, indicating railroad tracks were located along the northern boundary of the site. Common contaminants associated with historic railroad tracks include oils containing PCBs, herbicides, and arsenic for pest and weed control, potential presence of creosote on rail ties, and historical common practice of using coal cinders for track fill material.

Wildland Fires

The project site is located in an urbanized area of San José. The project site is not located within a moderate, high, or very high fire hazard severity zone.⁷⁹

3.9.2 Impact Discussion

For the purpose of determining the significance of the project’s impact on hazards and hazardous materials, a significant impact would occur if the project would:

Thresholds of Significance

- a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials;
- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;

⁷⁷ Partner Engineering and Science, Inc. *Phase I Environmental Site Assessment Report 1544 W. San Carlos Street*. June 19, 2019. Page 18.

⁷⁸ Partner Engineering and Science, Inc. *Phase I Environmental Site Assessment Report 1544 W. San Carlos Street*. June 19, 2019. Page 18.

⁷⁹ California Department of Forestry & Fire Protection. *Santa Clara County Very High Fire Hazard Severity Zones*. October 8, 2008.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment;
- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area;
- f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan;
- g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires.

3.9.2.1 *Project Impacts*

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

Post-construction operation of the proposed project would not result in hazardous materials being transported, used, or disposed of in quantities that would result in a significant hazard to the public. Operation of the proposed project would include the use and storage on-site of cleaning supplies and maintenance chemicals in small quantities because the project is comprised of a mixed-use building with uses commonplace to any other residential and commercial use. The nature of the project would not result hazardous materials would be used or stored on-site in excess of those normally associated with daily occupation of residential and commercial operations. The small quantities of cleaning supplies and materials would not pose a risk to adjacent land uses. **(Less than Significant Impact)**

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

On-Site Soils

As described above, the western portion of the site has been used for auto commercial uses since the 1950s, and contained a former UST. During the Phase II investigation, signs or presence of the former UST were not identified. In addition, soil sampling was completed to evaluate the potential of carbon chain total petroleum hydrocarbons (TPH-cc), and/or volatile organic compounds (VOCs) to contaminate on-site soils. Sampling results show that levels of TPH-cc and VOCs were below the applicable environmental screening levels (ESLs). Refer to Appendix F for additional details about sampling locations, methods, and results. While presence of the UST was not discovered, the following mitigation measure has been developed in the event the UST is discovered during project earthwork activities.

Impact HAZ-1: Construction activities associated with the proposed project could expose construction workers and nearby land uses to hazardous materials during earthwork activities.

Mitigation Measure:

MM HAZ-1.1: Prior to commencement of earthwork activities, the project applicant shall hire a qualified professional to develop a Site Management Plan that includes:

- Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of BMPs
- Proper disposal procedures of contaminated materials
- Monitoring, reporting, and regulatory oversight notifications
- A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection
- The health and safety plan will also outline proper soil/ and or groundwater handling procedures and health and safety requirements to minimize worker and public exposure to contaminated soil/and or groundwater during construction.

The Site Management Plan will be submitted to the Director of Planning, Building and Code Enforcement or Director's designee and the City's Municipal Environmental Compliance Officer of the Department of Environmental Services.

If any contamination is encountered above appropriate regulatory screening levels, then the applicant will notify the Santa Clara County Department of Environmental Health and enter into the County Site Cleanup Program. Removal of USTs and additional sampling/analysis will be completed under County Oversight. Evidence of County oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Municipal Environmental Compliance Officer.

Groundwater

As discussed above, there are three off-site sources of possible contamination that are hydrologically up-gradient to the project site. However, based on the lack of documented releases or spills and regulatory oversight, none of the off-site sources would impact groundwater on-site.⁸⁰ **(Less than Significant Impact)**

⁸⁰ (1) AEI Consultants. *Phase I Environmental Site Assessment*. December 10, 2019. (2) Partner Engineering and Science, Inc. *Phase I Environmental Site Assessment Report*. June 19, 2019.

Asbestos and Lead-Based Paint

As described above, the buildings on-site were constructed in the 1920s through 1960s. Since all buildings on-site were constructed prior to 1978, the buildings are likely to contain ACMs and LBP. Exposure to ACMs have been linked to cancer, and LBP can cause serious health problems, especially to children and pregnant women. The project proposes to demolish the buildings on-site; therefore, the project would be required to implement the following Standard Permit Conditions below.

Standard Permit Conditions: The project shall implement the following conditions to reduce impacts related to ACMs and LBP:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be constructed prior to the demolition of on-site building(s) to determine the presence of ACMs and/or LBP.
- During demolition activities, all building materials containing LBP shall be removed in accordance with Cal/OSHA Lead in Title 8, CCR, Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
 - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

Implementation of mitigation measure MM HAZ-1.1 and the Standard Permit Conditions above would reduce on-site contamination impacts to a less than significant level during construction of the proposed project. **(Less than Significant Impact)**

Historic Railroad Track

As described above, a historic railroad track was located immediately north of the project site until at least 1915. Based on the presence of pavement surrounding the project area, and time elapsed, the Phase I ESA concluded that the historical use of oils, arsenic, and herbicides associated with weed or pest control is expected to be minimal, and does not represent a significant environmental concern. **(Less than Significant Impact)**

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

There are no existing or proposed schools within 0.25 miles of the project site. The nearest school is Abraham Lincoln High School, located approximately 0.3 miles northwest of the site, therefore, the project would not result in a significant hazards and hazardous materials impact to any schools. **(No Impact)**

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

As described above, the project site is not located on the California Environmental Protection Agency Cortese List, compiled pursuant to Government Code Section 65962.5. **(Less than Significant Impact)**

-
- e) 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?**
-

As described above, the project site is approximately two miles south of the Norman Y. Mineta San José International Airport. While the site is not located within the Airport's AIA, or safety zones designated by the CLUP, it is located within the FAA's FAR Part 77 Notification Surface area. For the project site, any proposed structure of a height greater than approximately 35 feet AGL is required to be submitted to the FAA for review. At a proposed maximum height of 92 feet above ground (to the highest point of architectural element), the project would require review by the FAA. The project would be required to obtain an FAA "determination of no hazard" and to comply with any conditions set forth in the FAA determination prior to obtaining a grading permit. **(Less than Significant Impact)**

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

The project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FPEIR (as amended) to avoid unsafe building conditions. As a result, the proposed project would not impair or interfere with implementation of an adopted emergency response plan or emergency evacuation plan. **(No Impact)**

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

The project site is not located in an area that is exposed to wildland fire hazards. **(No Impact)**

3.9.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant hazards and hazardous materials impact?

The geographic area for cumulative hazards and hazardous materials impacts include the project site and its surrounding area. A review of the cumulative project list shows one development approximately 530 feet east of the project site (329 Page Street), which also contained buildings with ACMs and LBP; therefore, significant cumulative hazardous materials impacts from ACM and LBP could occur.⁸¹ For the cumulative development project, measures to properly remove and dispose of ACMs and LBP would be implemented as a condition of development approval. Measures would include incorporating the requirements of applicable existing local, state, and federal laws, regulations, and agencies such as Cal/OSHA, during development.

The project with implementation of the Standard Permit Conditions to remove ACMs and LBP would reduce hazards and hazardous materials impacts to a less than significant level, as discussed above. Because of compliance with existing statutes and regulation, the cumulative projects (including the proposed project), would not result in significant cumulative hazardous materials impacts. **(Less than Significant Cumulative Impact)**

3.9.3 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 existing hazards and hazardous materials conditions affecting a proposed project.

General Plan Policy EC-7.2 requires the identification of existing soil, soil vapor, groundwater, and indoor air contamination and mitigation for identified human health and environmental hazards to future site users. All development and redevelopment projects must provide identification and mitigation as part of the environmental review process. Mitigation measures for soil, soil vapor, and groundwater contamination are required to be designed to avoid adverse human health or

⁸¹ City of San José. *Page Street Housing Project Initial Study*. October 2018. Pages 93-94.

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

Based on the Phase I and Phase II reports, there has been no documented release of hazardous materials on-site. With implementation of mitigation measure MM HAZ-1.1, proper removal of any unknown USTs and/or other associated features, and analysis of underlying soil and groundwater, would reduce potential hazards to future occupants or construction workers at the site consistent with Policy EC-7.2.

3.10 HYDROLOGY AND WATER QUALITY

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

Water Quality 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 U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the Regional Water Quality Control Boards (RWQCBs). The project site is within the jurisdiction of the San Francisco Bay RWQCB.

Federal

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) in order 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 (FIRM) that identify Special Flood Hazard Areas (SFHA). 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.

State

Statewide Construction General Permit

The SWRCB has implemented a 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

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 Stormwater Permit (MRP)

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit⁸² (MRP) 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.

Provision C.3 – New Development and Redevelopment

Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

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

Local

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

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

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

The City of San José's Policy No.8-14 implements the stormwater treatment requirements of Provision C.3 of the MRP. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak

⁸² MRP Number CAS612008

runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

The proposed project is exempt from the NPDES hydromodification requirements related to preparation of an HMP because the project site is located in a subwatershed greater than or equal to 65 percent impervious surfaces.⁸³

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to applicable policies of the City's General Plan, including the following:

Envision San José 2040 General Plan Relevant Hydrology and Water Quality Policies	
Policy	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements per City standards.
Policy 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.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy 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 stormwater controls.
Policy 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.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

⁸³ Santa Clara Valley Urban Runoff Pollution Prevention Program. "Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements – San José." July 2011.

3.10.1.2 *Existing Conditions*

Hydrology and Drainage

The 1.34-acre site is located in the Guadalupe watershed. The Guadalupe watershed is a 171-square-mile area that drains the Guadalupe River and its tributaries from the eastern Santa Cruz Mountains to the valley floor. Runoff from the project site and the surrounding area enters the City's storm drainage system, which outfalls to Los Gatos Creek, located approximately 0.86 miles east of the site. The project site is currently developed and paved, with approximately 48,967 square feet (84 percent) of the site covered with impervious surfaces, and 9,094 square feet (16 percent) of the site covered in pervious surfaces.

Flooding and Other Hazards

The project site is not located in a 100-year floodplain. According to the FEMA FIRM, the project site is designated as Zone D, which is defined as "areas where flood hazards are undetermined, but possible."⁸⁴ There are no City floodplain requirements for Zone D.

According to the General Plan FPEIR, the project site is located within the Lexington Reservoir dam failure inundation area.⁸⁵

Water Quality

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from the project site and surrounding area is collected by storm drains and discharged into Los Gatos Creek. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, and animal feces), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

Under existing conditions, the project site is developed with commercial and residential uses, limited landscaping, and paved parking. Runoff from the site vicinity contains sediment, metals, trash, oils and grease from paved areas. Runoff from the project site currently flows directly into the City's storm drainage system, untreated for the removal of pollutants.

3.10.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hydrology and water quality, a significant impact would occur if the project would:

⁸⁴ Federal Emergency Management Agency. *Flood Insurance Rate Map, Community Panel No. 06085C033H*. Effective Date: May 18, 2009.

⁸⁵ City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. Figure 3.7-5.

Thresholds of Significance

- a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality;
- b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin;
- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
 - result in substantial erosion or siltation on- or off-site;
 - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
 - create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
 - impede or redirect flood flows;
- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation;
- e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

3.10.2.1 *Project Impacts*

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

Construction-Related Water Quality Impacts

Construction activities (e.g., grading and excavation) on the project site may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the proposed project would disturb approximately 1.34 acres of soil. Since more than one acre of soil would be disturbed, the project would be required to comply with the NPDES General Construction Permit.

In addition, all development projects in the City are required to comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant would be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan must detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants.

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

Construction of the proposed project, with implementation of the above measures in accordance with the NPDES construction permit and the City's 2040 General Plan, would not result in significant construction-related water quality impacts. **(Less than Significant Impact)**

Post-Construction Water Quality Impacts

The proposed project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP, as applicable. Stormwater runoff from the proposed development would drain into treatment areas, including bioretention areas, prior to entering the storm drain system. Details of specific site design, pollutant source control, and stormwater treatment control measures demonstrating compliance with Provision C.3 of the MRP would be included in the final project design, to the satisfaction of the Director of Public Works.

The project site is comprised of approximately 48,967 square feet (84 percent) of impervious surfaces and 9,094 square feet (16 percent) of pervious surfaces. The proposed project would increase the impervious area by 531 square feet, resulting in 49,498 square feet (85 percent) of impervious surfaces and 8,563 square feet (15 percent) of pervious surfaces. The project proposes bioretention treatment facilities which would be numerically sized to treat runoff prior entering the storm drainage system consistent with the NPDES requirements.

The 2040 General Plan FPEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater

quality. With implementation of a stormwater control plan consistent with RWQCB requirements and compliance with the City's regulatory policies pertaining to stormwater runoff, the proposed project would have a less than significant water quality impact. **(Less than Significant Impact)**

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

The project site is located in an urban area and is not within a designated groundwater recharge zone for the groundwater basin.⁸⁶ The depth to groundwater on the project site is approximately 28-53 feet below grade.⁸⁷ Excavation for the project would extend no more than 14 feet below grade, therefore, development of the project site would not result in the need to pump groundwater from the site and would not interfere with groundwater recharge. **(Less than Significant Impact)**

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

Construction of the proposed project would not substantially alter the drainage pattern of the site or surrounding area. The project would slightly increase the total impervious surface area of the project site by approximately 531 square feet; however, the project would comply with the MRP and City of San José Policy 6-29, which would remove pollutants and reduce the rate and volume of runoff from the project site, thereby reducing the potential for erosion or siltation on and off the site. According to the FEMA Flood Insurance Rate Map, the project site is designated as Zone D, which is defined as areas where flood hazards are undetermined, but possible.⁸⁸ There are no City floodplain requirements for Zone D. For these reasons, development of the project site would not exceed the capacity of the existing storm drainage system serving the project site. **(Less than Significant Impact)**

⁸⁶ City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. Figure 3.7-5.

⁸⁷ AEI Consultants. *Phase I Environmental Site Assessment, 1530-1536 West San Carlos Street*. December 10, 2019. Page 13. Note that depth and gradient of the water table can change seasonably in response to variation in precipitation and recharge, and over time, in response to urban development such as storm water controls, impervious surfaces, cleanup activities, and dewatering.

⁸⁸ Federal Emergency Management Agency. *Flood Insurance Rate Map, Community Panel No. 06085C033H*. Effective Date: May 18, 2009.

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

The project site is not located within a 100-year flood hazard area or a tsunami inundation zone.⁸⁹ The site is not proximate to a large body of water, therefore, the potential for the project site to be subject to seiches is considered low.

While the project site is located in the inundation areas for the Lexington Reservoir,⁹⁰ the Santa Clara Valley Water District's (Valley Water's) comprehensive dam safety program and emergency action plan would ensure public safety. For this reason, the proposed project would not risk release of pollutants due to project inundation. **(Less than Significant Impact)**

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

As discussed above, the project would increase the site's impervious surface area, increasing the volume of runoff from the site; however, the project is not within a designated groundwater recharge area, and does not propose groundwater pumping or excavation below the groundwater table during the construction period. In addition, the project would implement stormwater BMP to prevent pollution, and would not result in significant water quality impacts during construction or operation with compliance of the NPDES General Construction Permit, City of San José's Grading Ordinance, Post-Construction Urban Runoff Policy 6-29, and Provision C.3 of the RWQCB MRP. **(Less than Significant Impact)**

3.10.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant hydrology and water quality impact?

Water Quality, Groundwater, and Drainage Impacts

The geographic area for cumulative hydrology and water quality impacts includes the Guadalupe Watershed, where the project site is located in. Build out of the cumulative projects would involve redevelopment of existing or previously developed sites that are largely impervious, and these projects would be required to conform to applicable General Plan goals, policies, and strategies regarding stormwater runoff, infrastructure, and flooding. Cumulative projects would be required to comply with applicable requirements in the statewide Construction General Permit, City of San José Grading Ordinance, Post-Construction Urban Runoff Policy 6-29, and Provision C.3 of the RWQCB MRP to avoid hydrology and water quality impacts or reduce them to a less than significant level. The proposed project, in conformance with applicable regulations and with the implementation of standard permit conditions listed under Impact HYD-1, would not have a cumulatively considerable

⁸⁹ Association of Bay Area Governments. "Resilience Program." Accessed: July 11, 2019. Available at: <http://gis.abag.ca.gov/website/Hazards/?hlyr=northSanAndreas>.

⁹⁰ City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. Figure 3.7-5.

contribution to significant cumulative water quality, groundwater, or drainage impacts. **(Less than Significant Cumulative Impact)**

Flooding and Inundation Impacts

The project site is not subject to flood or inundation hazards. The project, therefore, would not have a cumulatively considerable contribution to significant cumulative flooding and inundation impacts. **(No Cumulative Impact)**

3.11 LAND USE AND PLANNING

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

West San Carlos Urban Village Plan

The project site is located within the adopted West San Carlos Urban Village Plan. The West San Carlos Urban Village contains an overall vision of “West San Carlos Street as a mixed-use, walkable, and transit-oriented place with viable commercial business, livable neighborhoods, and attractive parks and open spaces.”

Under the West San Carlos Urban Village Plan, the project site is designated as Urban Village within the Mixed-Use Residential Character Area, as shown in Figure 2.2-5. The Urban Village designation supports a wide variety of commercial, residential, institutional, or other land uses with an emphasis on establishing attractive urban form and pedestrian orientation in keeping with the Urban Village concept. The Urban Village land use designation has different use and intensity parameters in the Mixed-Use Residential Character Areas. The Urban Village designation in the Mixed-Use Residential Character Area is a commercial designation which supports residential development only on parcels meeting a minimum size of 0.5 acres. Residential development along West San Carlos Street or Meridian Avenue should include pedestrian oriented, ground-floor commercial uses that front the street. This designation also supports a broad range of commercial development including retail and office.

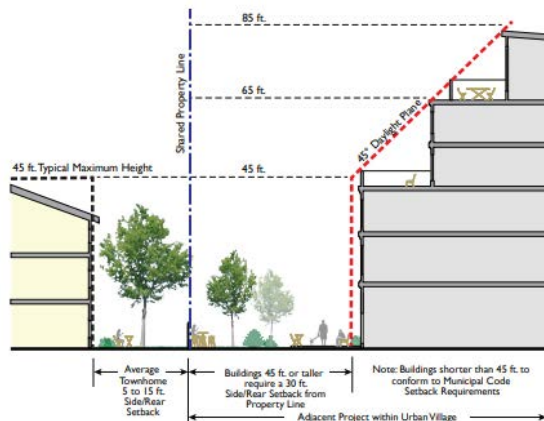
The proposed project would be subject to the land use policies of the West San Carlos Urban Village Plan, including the following:

West San Carlos Urban Village Land Use Policies	
Policies	Description
LU-1.1	Encourage new commercial development to be built at Floor Area Ratios of 0.3 or greater
LU-2.1	Encourage mixed-use residential projects to be built at densities of 55 dwelling units to the acre or greater provided that the proposed site design is compatible with the surrounding neighborhood.
LU-2.2	Ensure that residential development along West San Carlos Street and Meridian Avenue that is developed under the Urban Village Land Use Designation and located within the Mixed-Use Residential Character Area has ground-floor commercial and/or active uses fronting those streets.
LU-2.3	Prohibit surface parking lots in front of buildings
LU-2.5	Where an existing commercial use redevelops within the Mixed-Use Commercial Character Area, the existing commercial square footage must be replaced with an equivalent commercial square footage in the new development, at a minimum.
LU-2.8	Consider existing motor vehicle uses (such as auto repair, automobile sales, and rental lots, auto parts sales, and car washes) as interim uses, but encourage properties that contain these uses to be redeveloped with pedestrian- and transit-supportive uses.
LU-3.1	Strongly encourage mixed uses and intensities that support High-Intensity Urban Transit

ridership.

- P-1.8 Ensure that new development provides convenient, walkable pedestrian connects through the site and to existing and planned open spaces.
- P-2.5 Employ green buffers/paseos when larger new development abuts existing neighborhoods or is located in such a way that allows for the continuation of a green paseo.
- UD-5.1 Integrate new development appropriately into the existing residential neighborhoods by providing transitions, and by developing at a compatible scale.
- UD-5.2 Provide proper height transitions between new, higher-density commercial and mixed-use development and adjacent single-family homes by using building setback, upper-story setback, and landscaping to soften the transitions near property lines.
- UD-5.4 For new development taller than 45 feet, provide a minimum 30-foot side and/or rear setback along the shared property lines with adjacent Mixed-Use Neighborhood designated properties (both inside and outside the Urban Village boundary). Starting at a height of 45 feet, buildings and structures are encouraged to not intercept the 45-degree daylight plane (see Figure 5.3 of the West San Carlos Urban Village Plan). Buildings shorter than 45 feet shall conform to the San José Municipal Code setback requirements and shall not be subject to the daylight plane.

Figure 5.3: Transitional Height Diagram applies to properties inside and outside the Urban Village boundary with a Mixed-Use Neighborhood General Plan designation



- UD-5.6 Provide a minimum five-foot landscape buffer planted with evergreen trees between new development and existing Residential Neighborhood designated properties.
- UD-6.1 Encourage the use of underground vehicle parking where feasible.
-

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the land use policies of the City's General Plan, including the following:

Envision San José 2040 General Plan Relevant Land Use Policies	
Policies	Description
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy LU-9.2	Facilitate the development of complete neighborhoods by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.
Policy LU-9.4	Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated.
Policy LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
Policy LU-9.7	Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use / Transportation Diagram.
Policy 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.
Policy TR-14.4	Require aviation 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.

3.11.1.2 *Existing Conditions*

Project Site

The project site is designated Urban Village under the City's General Plan and is located within the West San Carlos Urban Village. Within the West San Carlos Urban Village, the project site is designated Urban Village in the Mixed-Use Residential Character Area. This designation allows for a density of 55 to 250 du/ac, and a Floor Area Ratio (FAR) for non-residential uses up to 10.

The project site is zoned Commercial Pedestrian (CP) and Multiple Residence (R-M). The CP Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods, and to support the goals and policies of the general plan related to Neighborhood Business Districts. The CP District also encourages mixed residential/commercial development where appropriate, and is designed to support the commercial goals and policies of the General Plan in relation to Urban Villages. The purpose of the R-M Zoning District is to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed use development.

The 1.34-acre project site is located at the southeastern corner of West San Carlos Street (four-lane roadway) and Buena Vista Avenue (two-lane roadway). The project site is currently developed with two auto-commercial buildings, a restaurant, eight single-family residences, and surface parking.

Surrounding Land Use

Development in the area generally consists of residential and commercial land uses. Surrounding land uses include one- to two-story single-family residences to the south, southwest across Buena Vista Avenue, and southeast; a four-story senior-living development to the north across West San Carlos Street, and one-story commercial development to the east, west across South Buena Vista Avenue, and northwest across West San Carlos Street (refer to Figure 2.2-3). The General Plan land use designation and zoning of the surrounding area are summarized in Table 3.11-1.

Table 3.11-1: Land Uses Surrounding the Project Site			
Direction	General Plan Designation	Zoning District	Existing Use
North	Urban Village	Planned Development	Senior Living Facility
South (of Building 1)	Mixed-Use Neighborhood	Multiple Residence	Residential
South (of Building 2)	Urban Village	Multiple Residence	Residential
East	Urban Village	Commercial Neighborhood; and Multiple Residence	Commercial and Residential
West	Urban Village	Commercial Pedestrian; and Multiple Residence	Commercial and Residential

3.11.2 Impact Discussion

For the purpose of determining the significance of the project's impact on land use and planning, a significant impact would occur if the project would:

Thresholds of Significance

- a) Physically divide an established community;
- b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

3.11.2.1 *Project Impacts*

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

Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The project, which proposes to construct two residential/commercial mixed-use buildings along West San Carlos Street, consistent with the General Plan and West San Carlos Urban Village Plan, and would not include construction of dividing infrastructure. The project area consists of a mix of commercial and residential land uses and the proposed use would not introduce new or incompatible land use to the area. For these reasons, the project would not physically divide an established community. **(Less than Significant Impact)**

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

Envision San José 2040 General Plan

The project site has a General Plan land use designation of Urban Village, which allows for a density of up to 250 du/ac with an FAR up to 10.0. As defined in the General Plan, the Urban Village designation supports a wide variety of commercial, residential, institutional or other land uses. The project proposes 173 residential units and on the 1.34-acre site, which equates to a density of approximately 129 du/ac and a FAR of 0.31.⁹¹ The project's use and density are consistent with the existing General Plan land use designation. **(Less than Significant Impact)**

West San Carlos Urban Village Plan

The General Plan refers to the Urban Village Plans for the allowed uses, density, and FAR for particular sites within each Urban Village area. Within the West San Carlos Urban Village Plan, the project site is designated as Urban Village within the Mixed-Use Residential Character Area, a commercial designation which supports residential development only on parcels with a minimum size of 0.5 acres, at a density of 55 to 250 du/ac. Based on the proposed project size of 1.34 acres and density of 129 du/ac, the project would be consistent with the density range permitted by the West San Carlos Urban Village Plan.

The West San Carlos Urban Village Plan contains policies to step down development heights with setbacks as a transition from commercial and/or mixed-use buildings to the surrounding single-family residential neighborhoods. The proposed project would construct two multi-story buildings with a maximum height of 92 feet adjacent to existing single-family neighborhood to the south of the site.

As summarized in Table 3.11-1, the parcel south of Building 1 is outside of the Urban Village boundary and is designated as Neighborhood Mixed-Use, and the parcel south of Building 2 is within

⁹¹ FAR: 17,836 commercial square feet / 58,603 square feet (project site) = 0.30

the Urban Village boundary and designated as Urban Village, and also in the Mixed-Use Residential Character Area. The adjacent parcels south of the site are currently developed with single-family residences. The project is consistent with Policy UD-5.4 by providing a 30-foot setback from Building 1 to the southern property line where it abuts a property outside the Urban Village boundary. In addition, floors five through seven of Building 1 would further step back from the southern property line a total distance of approximately 59 feet. The southern property line where Building 2 is proposed would be approximately 140 feet north of the nearest parcels designated Neighborhood Mixed-Use; therefore, is not subject to the setback and upper-story setback required for Building 1. Building 2 would have a 15-foot setback area with landscaping and a private walkway from the southern property line.

The project would also be consistent with LU-2.2, LU-2.3, LU-2.5, LU-2.8, LU-3.1, P-1.8, and P-2.5 by redeveloping auto-commercial development with high-density mixed-use development, placing ground-floor commercial uses fronting West San Carlos Street, making sidewalk improvements on the project frontage, and installing a green paseo in the southern portion of the project site. **(Less than Significant Impact)**

Zoning Ordinance

The CP and R-M zones comprise the three parcels of the project, with the CP zone designation applied to parcels -018 and -020, while parcel -019 is zoned RM. The applicant has requested approval of a Special Use Permit to allow mixed-use development consistent with the CP zone. The existing RM zone is inconsistent with the land use designation of the General Plan and the West San Carlos Urban Village Plan designation of “Urban Village within the Mixed-Use Residential Character Area,” because the RM does not permit mixed-uses. Pursuant to Assembly Bill 3194, effective January 1, 2019, a City cannot force a rezoning to achieve General Plan conformance. The City must review the project under the closest zoning district that facilitates development under the General Plan. In this situation, the closest zoning district would be the CP zone. Therefore, a mixed-use project would be consistent with the CP zone, contingent upon issuance of a Special Use Permit. **(Less than Significant Impact)**

3.11.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant land use and planning impact?

The cumulative impact of the project on applicable land use plans is evaluated in conjunction with all past, present, and pending land uses in the City. All private development (including the proposed project) in the City of San José is subject to conformance plans for the purposes of avoiding or mitigating environmental effects.

As discussed above, the project would not divide an established community and is consistent with the General Plan land use designation for the site, and applicable General Plan and West San Carlos Urban Village Plan policies. For these reasons, the project would not contribute to a significant cumulative conflict with applicable land use plans. **(Less than Significant Cumulative Impact)**

3.12 MINERAL RESOURCES

3.12.1 Environmental Setting

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is approximately three miles northwest of the Communications Hill area.

3.12.2 Impact Discussion

For the purpose of determining the significance of the project's impact on mineral resources, a significant impact would occur if the project would:

Thresholds of Significance

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?
- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

3.12.2.1 *Project Impacts*

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

The Communications Hill area in central San José is the only area within the City that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill. The project would not result in the loss of availability of a known mineral resource. **(No Impact)**

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

The project site is not located in an area of San José or Santa Clara County with known mineral resources. Therefore, the project would not result in the loss of availability of a mineral resource recovery site. **(No Impact)**

3.12.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant mineral resources impact?

As discussed above, the project site is not designated as a mineral resource recovery site, nor does it contain any known mineral resource. The proposed project, therefore, would not contribute to a significant cumulative impact on mineral resources. **(No Cumulative Impact)**

3.13 NOISE

This discussion is based, in part, on a Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. on March 26, 2020. This report is included in this EIR as Appendix G.⁹²

3.13.1 Environmental Setting

3.13.1.1 *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 (dB) 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 dB 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 (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.⁹³ 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.

⁹² Since completion of Noise and Vibration Assessment, the size of the project was reduced. The total residential units were reduced from 174 to 173 units, the total commercial development was reduced from 19,600 to 17,836 square feet. The parking was reduced from 199 spaces to 189 spaces. The slight decrease in development would not measurably change noise levels as compared to the prior version of the project. The significance of impacts and mitigation measures described within the report would remain the same.

⁹³ Energy-equivalent sound/noise descriptor (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} .

3.13.1.2 Regulatory Framework

Federal

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 3.13-1 below. There are established criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

Table 3.13-1: Groundborne Vibration Impact Criteria			
Land Use Category	Groundborne Vibration Impact Levels (VdB inch/sec)		
	Frequent Event	Occasional Events	Infrequent Events
Category 1: Buildings where vibration would interfere with interior operations	65	65	65
Category 2: Residences and buildings where people normally sleep	72	75	80
Category 3: Institutional land uses with primarily daytime use	75	78	83
Source: Federal Transit Administration. <i>Transit Noise and Vibration Assessment Manual</i> . September 2018.			

State and Local

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources not exceed 45 L_{dn}/C_{NEL} in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

California Green Building Standards Code

For commercial uses, CalGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC

of 30 when the commercial property falls within the 65 dBA L_{dn} or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The state requires interior noise levels to be maintained at 50 dBA $L_{eq}(1-hr)$ or less during hours of operation at a proposed commercial use.

Local

Envision San José General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 4.13-1.

Envision San José 2040 General Plan Relevant Noise Policies	
Policies	Description
Policy EC-1.1	<p>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:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none"> 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 <i>Envision General Plan</i> traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <p><u>Exterior Noise Levels</u></p> <ul style="list-style-type: none"> The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses. The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
Policy EC-1.2	<p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels 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:</p>

	<ul style="list-style-type: none"> • Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain “Normally Acceptable”; or • Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City’s Municipal Code.
Policy EC-1.7	<p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
Policy EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize potential for cosmetic damage at buildings of normal conventional construction.

Table 4.13-1: General Plan Land Use Compatibility Guidelines						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
Notes: ¹ Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required. <div> <div></div> 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. </div> <div> <div></div> 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. </div> <div> <div></div> Unacceptable: New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. </div>						

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.⁹⁴

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

3.13.1.3 Existing Conditions

The project site lies outside of the 60 dBA CNEL 2027 noise contour of the Norman Y. Mineta San José International Airport.⁹⁵ The project site is located on the south side of West San Carlos Street between Buena Vista Avenue and Willard Avenue. West San Carlos Street is the primary noise source in the project vicinity. The project site is surrounded by commercial uses on West San Carlos

⁹⁴ The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

⁹⁵ City of San José. *Norman Y. Mineta San José International Airport Master Plan Update Project: Eighth Addendum to the Environmental Impact Report*. February 10, 2010.

Street, to the west across South Buena Vista Avenue, and to the east. Residential uses are located north across West San Carlos Street, and south of the site.

A noise monitoring survey was completed to document existing noise conditions within and near the project site. The noise monitoring survey included two long-term noise measurements (LT-1 and LT-2), and two short-term noise measurements (ST-1 and ST-2). Noise measurement locations are shown on Figure 3.13-1. The existing noise environment at the project site results primarily from vehicular traffic on West San Carlos Street and other nearby roadways. Aircraft associated with Norman Y. Mineta San José International Airport are also audible at times. The results of the noise measurements are summarized below.

Long-Term

LT-1 was made approximately 250 feet from the center of West San Carlos Street near the south end of the project site to represent the ambient noise environment at residential land uses bordering the site. Distant traffic was the primary source of noise affecting ambient noise levels, which typically ranged from 48 to 59 dBA L_{eq} during the day and from 43 to 55 dBA L_{eq} at night. The day-night average noise level was 55 dBA DNL. LT-2 was made in front of 1535 West San Carlos Street approximately 45 feet north of the roadway centerline. Hourly average noise levels typically ranged from 65 to 73 dBA L_{eq} during the day and from 57 to 70 dBA L_{eq} at night. The day-night average noise level was 72 dBA DNL.

Short-Term

Two short-term noise measurements were made over a period of ten-minutes. ST-1 was in front of 316 Buena Vista Avenue. The 10-minute average at this location was 57 L_{eq} . ST-2 was in front of 315 Willard Avenue. The 10-minute average at this location was 59 L_{eq} . Local traffic was the predominant source of noise at these short-term noise measurement sites.

3.13.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, a significant impact would occur if the project would result in:

Thresholds of Significance

- a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;
- b) Generation of excessive groundborne vibration or groundborne noise levels;
- c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels.

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, or 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 three dBA noise level increase is considered the minimum increase that is perceptible to the human ear.

Per City of San José Policy EC-1.2, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.



NOISE MEASUREMENT LOCATIONS

FIGURE 3.13-1

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 or Permanent 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 has concluded that a significant impact would be identified if the construction of the project would expose persons to excessive vibration levels. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structure sound but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

3.13.2.1 *Project Impacts*

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

Operational Noise

Traffic Noise

According to the City’s General Plan, a significant permanent noise increase would occur if the project would increase noise levels at noise-sensitive receptors by three dBA DNL or more where ambient noise levels exceed the “normally acceptable” noise level standard. Where ambient noise levels are at or below the “normally acceptable” noise level standard, noise level increases of five dBA DNL or more would be considered significant. The City’s General Plan defines the “normally acceptable” outdoor noise level standard for the residential land uses to be 60 dBA DNL. Existing ambient levels, based on the measurements made in the project vicinity, exceed 60 dBA DNL near West San Carlos Street, and are about 55 dBA DNL away from West San Carlos Street. Therefore,

the more stringent threshold applies. For reference, a three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.⁹⁶

The project's traffic study included peak hour turning movements for the existing traffic volumes at five intersections: Buena Vista Avenue/San Carlos Street, Muller Place/San Carlos Street, Meridian Avenue/San Carlos Street, Race Street/San Carlos Street, and Leigh Avenue/Shasta Avenue and San Carlos Street (Refer to Appendix H for details). The traffic study calculated the project's trip generation which estimates 64 net new trips in the peak AM hour and 93 net new trips in the peak PM hour. Compared to existing traffic volumes at these five intersections, the project's contribution to permanent noise level increases along roadways serving the site was calculated to be one dBA DNL or less; therefore, the proposed project would not result in a permanent noise increase of three dBA DNL or more.⁹⁷ **(Less than Significant Impact)**

Mechanical Equipment

High-density residential buildings typically require various mechanical equipment, such as air conditioners, exhaust fans, and air handling equipment for ventilation of the buildings. The site plan does not include detailed information about the location or types of mechanical equipment proposed. Generally, however, one heating, ventilation, and air conditioning (HVAC) unit would be provided per unit at the rooftop level of the building which will cause most of the noise to be projected upward and away from neighboring properties.⁹⁸

Noise levels produced by a typical residential heat pump are approximately 56 dBA at three feet during operation. Noise levels produced by a typical residential air conditioning condenser are approximately 66 dBA at three feet during operation. Due to the limited ground space surrounding the building, it is assumed for the purpose of this study that the HVAC units would be located on the rooftop level of the building. Under these assumptions, up to 173 mechanical units would be located on the roofs of Buildings 1 and 2. Based on the above generic assumptions, mechanical equipment noise levels are calculated to be 36 to 46 dBA at the nearest residential land uses and would be well below ambient noise levels and the limits established in the City's General Plan. Furthermore, the following standard permit condition will be implemented to ensure noise from the project's mechanical equipment would not exceed the City's 55 dBA DNL threshold at nearby noise sensitive receptors.

Standard Permit Condition:

- Prior to the issuance of any building permits, 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

⁹⁶ California Department of Transportation. *Technical Noise Supplement*. September 2013. Pages 2-12.

⁹⁷ Illingworth & Rodkin, Inc. *1530-1544 West San Carlos Street Mixed-Use Development Noise and Vibration Assessment*. March 26, 2020. Page 28.

⁹⁸ Illingworth & Rodkin, Inc. *1530-1544 West San Carlos Street Mixed-Use Development Noise and Vibration Assessment*. March 26, 2020. Page 28.

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 City of San José for review and approval prior to issuance of any building permits.”

With implementation of the above standard permit condition, the project would result in a less than significant mechanical equipment noise impact. **(Less than Significant Impact)**

Construction

The potential for temporary noise impacts due to project construction activities would depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time. 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 and during the construction of the building’s foundation when heavy equipment is used. The highest noise levels would be generated during grading, excavation, and foundation construction. The hauling of excavated materials and construction materials would generate truck trips on local roadways, as well.

The project would excavate approximately 25,380 cubic yards of soil (to a maximum depth of 14 feet). Construction of the project would consist of two phases. Construction of phase one, which would construct Building 1, was estimated to begin in June 2020 and would take approximately 24 months.⁹⁹ Construction of phase two, which would construct Building 2, would occur subsequently and would also take approximately 24 months. The total construction period would be approximately 48 months.

⁹⁹ The project originally assumed a construction start time of June 2020, which is the year the air quality and GHG analysis relied upon to model emissions. Since the project has progressed, the estimated start time has been updated to June 2021. While it is acknowledged the construction start time is shifted to a later time, the construction start time in the air quality model was kept as is for a more conservative analysis. The air quality/GHG model accounts for cleaner construction equipment and building operational efficiency emissions as the construction and operational years increase, therefore, using the earlier estimated construction and operational start time than the actual later start time is a more conservative analysis. Source: Divine, Casey. Illingworth & Rodkin, Inc. Personal Communication. December 15, 2020.

Adjacent commercial land uses are exposed to ambient daytime noise levels typically ranging from 65 to 73 dBA L_{eq} due to traffic along West San Carlos Street.¹⁰⁰ Existing residential land uses bordering the site are exposed to lower ambient noise levels because they are located further from West San Carlos Street and shielded by intervening buildings. Typical daytime noise levels at nearby residences range from 48 to 59 dBA L_{eq} .¹⁰¹ During project construction, construction noise levels would generally fall within the range of 65 to 88 dBA L_{eq} at the nearest receptors; therefore, noise levels due to construction activities would exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses, and 70 dBA L_{eq} at the nearest commercial land uses, and substantially exceed ambient conditions for more than one year. Therefore, the project shall implement the following Standard Permit Condition to reduce potential impacts to less than significant.

Standard Permit Condition: The following standard measures would be implemented during project construction:

- Per General Plan Policy EC-1.7, the project shall 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 hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.

¹⁰⁰ Illingworth & Rodkin, Inc. *1530-1544 West San Carlos Street Mixed-Use Development Noise and Vibration Assessment*. March 26, 2020. Page 12.

¹⁰¹ Illingworth & Rodkin, Inc. *1530-1544 West San Carlos Street Mixed-Use Development Noise and Vibration Assessment*. March 26, 2020. Page 12.

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

With implementation of the above Standard Permit Conditions, the project’s impact from construction generated noise would be less than significant. **(Less than Significant Impact)**

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

Operation

Operation of the proposed project would not create substantial groundborne vibration. While the project may include truck loading activities such as garbage collection during operation, the project would not have activities that would substantially create groundborne vibration or excessive noise. **(Less than Significant Impact)**

Construction

The construction of the project may generate vibration when heavy equipment or impact tools are used. Construction activities would include the demolition of existing structures, site preparation work, excavation of the below-grade parking level, foundation work, and new building framing and finishing. Pile driving is not proposed as a foundation construction technique.

Policy EC-2.3 of the City of San José General Plan establishes a vibration limit of 0.08 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and a vibration limit of 0.2 in/sec PPV to minimize damage at buildings of normal conventional construction. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José. As discussed in detail below, vibration levels exceeding these thresholds would be capable of cosmetically damaging adjacent buildings. Cosmetic damage (also known as threshold damage) is defined as hairline cracking in plaster, the opening of old

cracks, the loosening of paint or the dislodging of loose objects. Minor damage is defined as hairline cracking in masonry or the loosening of plaster. Major structural damage is defined as wide cracking or the shifting of foundation or bearing walls.

A review of the City of San José Historic Resource Inventory identified the residences located at 328 Mayellen Drive, approximately 350 feet from the project site, and 410 South Willard Avenue, approximately 600 feet from the project site, as the only historic resources in the site vicinity. The nearest structures of normal conventional construction are approximately five feet south from the project.

Based on the noise and vibration assessment, the construction of the project would not generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at distances greater than 60 feet, therefore, would not significantly impact the nearest historic property, but would produce vibration levels exceeding 0.2 in/sec PPV or more at buildings of normal conventional construction located within 30 feet of the project site, including the nearest structures five feet south from the project site. At a distance of five feet, the vibration levels would reach 1.2 in/sec PPV.

Impact NOI-1: Project construction would generate vibration levels in exceedance of 0.2 in/sec PPV at buildings of normal conventional construction located within 30 feet of the project site.

Mitigation Measures:

MM NOI-1.1: Equipment Selection. Prior to issuance of any demolition or grading permits, the project applicant shall implement the following controls to reduce vibration impacts from construction activities:

- Prohibit impact or vibratory pile driving. Drilled piles or mat slab foundations cause lower vibration levels where geological conditions permit their use.
- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.
- Place operating equipment on the construction site at least 30 feet from vibration-sensitive receptors.
- Use the smallest equipment available to complete the task and minimize vibration levels as low as feasible.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.

MM NOI-1.2: Vibration monitoring plan. The project applicant shall implement the following controls to identify and monitor construction vibration:

- Implement a construction vibration monitoring plan to document condition of conventional properties within 30 feet of the project site 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 construction vibration monitoring plan shall be implemented to include the following tasks:
 - Identification of sensitivity to ground-borne vibration of the property. A vibration survey (generally described below) shall be performed.
 - Performance of a photo survey, elevation survey, and crack monitoring survey for the structures within 30 feet of the site. Surveys shall be performed prior to, in regular intervals during, and after completion of vibration generating construction activities and shall include internal and external crack monitoring in the structure, settlement, and distress and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of said structure.
 - Development of a vibration monitoring and construction contingency plan to identify where monitoring shall be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction. Construction contingencies, such as alternative construction methods and equipment, or securing the structure, shall be identified for when vibration levels approach the limits.
 - If vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structure.
 - Complete a post-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities.
 - The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report will include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded

vibration limits will be included together with proper documentation supporting any such claims.

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

With implementation of mitigation measures MM NOI-1.1 and MM NOI-1.2, construction of the proposed project would not generate vibration in excess of the standards defined in the City's Noise Element. **(Less than Significant Impact with Mitigation Incorporated)**

c) 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. Would the project expose people residing or working in the project area to excessive noise levels?

The Norman Y. Mineta San José International Airport is located approximately two miles from the project site. The project site is not located within the Santa Clara County Comprehensive Land Use Plan area for the Norman Y. Mineta San José International Airport. As discussed above, the project lies outside the 60 dBA CNEL 2027 noise contour of the airport. The project site is not located in the vicinity of a private airstrip; therefore, the project would not expose people residing or working in the vicinity of a private airstrip to excessive noise levels. **(No Impact)**

3.13.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant noise impact?

Operation

A significant impact would occur if two criteria are met: 1) if the cumulative traffic noise level increase was three dBA DNL or greater for future levels exceeding 60 dBA DNL or was five dBA DNL or greater for future levels at or below 60 dBA DNL; and 2) if the project would make a "cumulatively considerable" contribution to the overall traffic noise increase. A "cumulatively considerable" contribution would be defined as an increase of one dBA DNL or more attributable solely to the proposed project. Cumulative plus project traffic noise level was calculated to increase by one dBA DNL or less at the project site, resulting in future noise levels of 73 dBA DNL at a distance of 45 feet from the centerline of West San Carlos Street, therefore, cumulative traffic noise levels would not significantly increase, and the project would not cause result in a cumulatively considerable contribution to increased traffic noise levels in the project vicinity. **(Less than Significant Cumulative Impact)**

Construction

Construction noises have the potential to add to construction noise occurring at other sites within approximately 500 feet from the source; therefore, the geographic area for construction noise is identified as locations within 500 feet of the project site. There are no cumulative projects within 500

feet of the project site that would be constructed the same time as the proposed project; therefore, there would be no cumulative construction noise impact. **(No Cumulative Impact)**

3.13.3 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 existing noise conditions affecting a proposed project.

The future noise environment at the project site would continue to result primarily from vehicular traffic along West San Carlos Street. Cumulative plus project traffic conditions are expected to result in traffic noise level increases of one dBA DNL or less at the project site resulting in future noise levels of 73 dBA DNL at a distance of 45 feet from the centerline of West San Carlos Street.

Exterior Noise Levels

The City of San José General Plan sets forth noise-related policies that support the City's goal of minimizing the impact of noise on people through noise reduction and suppression techniques. City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering federal, state and City noise standards and guidelines as a part of new development review.

Within the City of San José, the "normally acceptable" noise level threshold for common outdoor use areas at new multi-family residential uses, as established in the City of San José General Plan, is 60 dBA DNL. Communal open spaces for the residents are proposed on the third and fifth floors of Building 1 and on the third and seventh floors of Building 2. The third floor of Building 1 would contain two courtyards on the western side of the building. The fifth floor of the Building 1 would contain a terrace on the southern end of the building. The third floor of Building 2 would have a courtyard on the east side of the building. The seventh floor would contain two terraces on the east side of the building. In addition, a 30-foot wide paseo is proposed south of Building 1, and a privately accessible walkway is proposed south of Building 2.

Exterior noise levels were calculated at the center of each of these outdoor spaces. The three open space courtyards proposed on the third level of Buildings 1 and 2 would be located approximately 130 to 230 feet from the centerline of West San Carlos Street. A fifth floor common open space area is proposed about 300 feet from the centerline of West San Carlos Street at the south end of Building 1. The seventh floor roof terraces proposed at Building 2 would be approximately 80 feet and 200 feet from the centerline of West San Carlos Street, respectively.

The courtyards and common open space areas proposed on the third and fifth floors of the buildings would be well shielded from traffic by the building itself. When accounting for distance from the noise source and acoustical shielding, exterior noise levels at the three courtyards would range from 55 to 60 dBA DNL, and exterior noise levels at the common open space area proposed at the south end of the building would be less than 55 dBA DNL. Exterior noise levels are calculated to reach 56 dBA DNL at the center of the roof terrace proposed nearest to West San Carlos Street. Therefore, the

future exterior noise levels at residential common use areas would be 60 dBA DNL or less and compatible with General Plan Policy EC-1.1 for exterior noise levels at residential land uses.

Interior Noise Levels

Residential Use

The City's interior noise standard for residential uses is 45 dBA DNL. Dwelling units would be located on the second through seventh floors of the buildings.

The proposed residential units having direct line-of-sight to West San Carlos Street would be exposed to future exterior noise levels up to 73 dBA DNL. The western and eastern façades of the building would be exposed to future exterior noise levels ranging from 60 to 70 dBA DNL. Exterior noise levels at the southernmost façade of the building would be 55 dBA DNL or less.

Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where exterior noise levels range from 60 to 65 dBA DNL, the inclusion of adequate forced-air mechanical ventilation is often the method selected to reduce interior noise levels to acceptable levels by closing the windows to control noise. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant's discretion.

Assuming windows to be partially open for ventilation, the interior noise levels for the proposed project would be up to 58 dBA DNL at the units along the northern, western, and eastern façades of proposed building nearest to West San Carlos Street. This would exceed the 45 dBA DNL standard for interior noise. Consistent with General Plan Policy EC-1.1, the proposed project will be required, as a Condition of Project Approval, to implement the measures listed below.

Commercial Use

The Cal Green Code performance method requires that interior noise levels within non-residential land uses be maintained at 50 dBA $L_{eq}(1-hr)$ or less during hours of operation. The proposed commercial uses would be located on the first and second floors of the proposed building and exposed to future exterior noise levels reaching 74 dBA $L_{eq}(1-hr)$ during daytime hours. Interior noise levels for the proposed commercial uses would range from 49 to 54 dBA $L_{eq}(1-hr)$ assuming standard construction methods, which would exceed the 50 dBA $L_{eq}(1-hr)$ Cal Green Code performance method standard.

Condition of Project Approval:

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the

residential unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

3.14 POPULATION AND HOUSING

3.14.1 Environmental Setting

The population of San José was estimated to be approximately 1,043,058 in January 2019 with an average of 3.20 persons per household.¹⁰² Full build out of the General Plan FPEIR (as amended) is expected to result in a City population of over 1.3 million people by 2035.

The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,200 new jobs by 2040.¹⁰³ To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. At the time of preparation of the Envision San José 2040 General Plan FPEIR, San José had a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

The growth capacity for the West San Carlos Urban Village is 980 jobs and 1,245 residential units. The Plan considers one job as equal to 300 square feet of a commercial building's square footage, which translates into 294,000 square feet of capacity for new commercial development.

3.14.1.1 *Existing Conditions*

The project site is currently developed with eight residential units and approximately 7,600 square feet of commercial use. Based on the City's average persons per household, and West San Carlos Urban Village Plan's job estimate, the project site currently serves approximately 26 employees and 26 residents.¹⁰⁴

3.14.2 Impact Discussion

For the purpose of determining the significance of the project's impact on population and housing, a significant impact would occur if the project would:

¹⁰² State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2018." Accessed December 6, 2019. <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

¹⁰³ City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. November 2016. Page 16.

¹⁰⁴ Residents based on 3.20 residents per household; employees based on one employee per 300 commercial square feet.

Thresholds of Significance

- 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.

3.14.2.1 *Project Impacts*

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

The project proposes to construct 173 multi-family dwelling units and approximately 17,836 square feet of commercial use, generating approximately 554 residents and 60 employees, which is a net increase of 528 residents and 34 employees.¹⁰⁵ The proposed land use is consistent with the existing Urban Village General Plan land use designation, and the density is consistent with the density specified in the West San Carlos Urban Village Plan. Compared to the growth capacity of the West San Carlos Urban Village, the project would develop 14 percent of the residential capacity and 6.2 percent of the commercial capacity. For these reasons, the proposed project would not induce substantial unplanned population growth in the West San Carlos Urban Village. The project would not extend a road or infrastructure (i.e., utility mains) that would indirectly induce growth. **(Less than Significant Impact)**

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

While the project would demolish eight residences, the project proposes to construct 173 new residential units, resulting in a net increase of 165 residential units. The number of increased residential unit would not necessitate the construction of replacement housing elsewhere. **(Less than Significant Impact)**

3.14.2.2 *Cumulative Impacts*

-
- Would the project result in a cumulatively considerable contribution to a significant population and housing impact?**
-

The geographic area for cumulative population and housing impacts is the City boundaries, and can be extended further to Santa Clara County and the San Francisco Bay region. Past, present, and pending development projects contribute to the City's, County's, and region's population and housing impact.

¹⁰⁵ The proposed residential units would include Single Room Occupancy units (i.e., one-bedrooms and studio units), which are anticipated to have smaller household sizes than the Citywide average; nonetheless, this analysis conservatively estimates 3.20 persons per household.

As discussed above, the proposed project is consistent with the development assumptions in the City's General Plan and West San Carlos Urban Village Plan, and would not result in a cumulatively considerable contribution to a significant growth inducing impact. As discussed above, the project would result in a net increase of 165 residential units on-site, and would not displace a substantial number of housing. Therefore, the project would result in a less than significant cumulative population and housing impact. **(Less than Significant Cumulative Impact)**

3.15 PUBLIC SERVICES

3.15.1 Environmental Setting

3.15.1.1 *Regulatory Framework*

State

California Government Code Section 65996

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 issuance of a building permit. The legislation states that payments of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods of school impact mitigation under the Government Code. The CEQA documents must identify that school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would adequately mitigate project-related increases in student enrollment.

Quimby Act – California Code Sections 66475-66478

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

Local

Parkland Dedication Ordinance and 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 exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

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

Envision San José 2040 General Plan Relevant Public Service Policies

Policies	Description
Policy FS-5.7	Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: <ol style="list-style-type: none"> 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-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.
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy 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.
Policy PR-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (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.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sports fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Greenprint

To implement the park and recreation policies of the General Plan, the 2000 Greenprint was adopted by the San José City Council in September 2000 to provide staff and decision makers with a strategic plan for expanding recreation opportunities in the City. The 2000 Greenprint identified areas of the City that were underserved by park and recreation facilities and included policies and strategies to correct those deficiencies through the development of additional facilities in those locations. The City adopted the 2009 Greenprint as an update to the 2000 version. The City is currently in the process of another revision to the plan known as Greenprint Update 2018.

3.15.1.2 Existing Conditions

Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station #4 located at 710 Leigh Avenue, approximately 0.6 mile southwest of the project site.

The General Plan identifies a service goal of a total response time 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 are provided by the San José Police Department (SJPd), which is headquartered at 201 West Mission Street, approximately 1.9 miles northeast of the project site. SJPd is divided into four geographic divisions: Central, Western, Foothill, and Southern. The project site is directly served by the SJPd Western Division. The division consists of four patrol districts, and the project site is in District F.

The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent all Priority 2 (nonemergency) calls.

Schools

The project site is located in the San José Unified School District (SJUSD). The school district operates 41 schools (26 elementary, one K-8 school, six middle schools, six high schools, and two alternative education programs) serving over 30,000 students.¹⁰⁶ The project site is within the Trace Elementary, Hoover Middle School, and Lincoln High School attendance boundaries assigned by the SJUSD.¹⁰⁷ Trace is located at 651 Dana Avenue, Hoover is located at 1635 Park Avenue, and Lincoln is located at 555 Dana Avenue. The Envision San José 2040 General Plan FPEIR found that SJUSD was operating above capacity by 1,004 students.¹⁰⁸

According to the SJUSD student generation factors, single-family residential development generates 0.387 students per dwelling unit.¹⁰⁹ The project site is developed with eight single-family residences, which equates to approximately three students.

Parks

The City of San José currently operates 184 neighborhood parks (including skate parks), 13 community centers, nine regional parks, and over 55 miles of trails. The City's Department of Parks,

¹⁰⁶ San José Unified School District. "Information Guide." Accessed: July 30, 2019. Available at: https://www.sjUSD.org/docs/district_information/2018_Info_Guide_ENG_WEB.pdf.

¹⁰⁷ San José Unified School District. "School Site Locator." Accessed: July 20, 2019. Available at: <http://apps.schoolsitelocator.com/?districtcode=25499#>.

¹⁰⁸ City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. September 2011. Table 3.9-2.

¹⁰⁹ San José Unified School District. *Development Fee Justification Study*. April 2014. Appendix 1.

Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

The nearest public park is Buena Vista Park, located on the north side of Scott Street between Menker Avenue and Mayellen Avenue, approximately 0.25 mile southwest of the project site. The park includes two youth playgrounds and picnic areas.

Libraries and Community Centers

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the Rose Garden Branch Library at 1580 Naglee Avenue, approximately 0.7 miles northwest of the project site. The nearest community center is the Sherman Oaks Community Center, located at 1800A Fruitdale Avenue, approximately 0.9 mile southwest of the project site.

3.15.2 Impact Discussion

For the purpose of determining the significance of the project's impact on public services, a significant impact would occur if the project would

Thresholds of Significance

Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the 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.

3.15.2.1 *Project Impacts*

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

The proposed project is consistent with the existing General Plan designation; therefore, would not increase the City's resident population above what was assumed in the General Plan. As discussed in Section 3.14 Population and Housing, the proposed project would increase the service population on-site by 528 residents and 34 employees and, therefore, would incrementally increase the demand for fire protection services compared to existing conditions. The proposed development would be

constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. For these reasons, the proposed project would not require construction of new fire department facilities. **(Less than Significant Impact)**

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

The proposed project is consistent with the existing General Plan designation; therefore, would not increase the City's resident population above what was assumed in the General Plan. As discussed in Section 3.14 Population and Housing, the proposed project would increase the service population on-site by 528 residents and 34 employees, and therefore, would incrementally increase the demand for police protection services compared to existing conditions. The proposed development would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. For these reasons, the proposed project would not require construction of new police protection facilities. **(Less than Significant Impact)**

c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the 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 would replace eight single-family residences on-site with 173 multi-family units. As discussed above, the existing uses onsite are generate approximately three students. According to the SJUSD student generation factors, multi-family residential development generates 0.272 students per dwelling unit.¹¹⁰ Based on this generation factor, the proposed 173 multi-family units is estimated to generate approximately 47 students, which is a net increase of 44 students. According to the General Plan FPEIR, build out of the General Plan would require construction of seven elementary, two middle, and two high schools within the SJUSD.¹¹¹

While the proposed project would result in an incremental increase of students attending local schools, the proposed project would be consistent with the existing General Plan designation; therefore, would not increase the City's resident population above what was assumed in the General Plan, and would not require new or expanded school facilities beyond what is already assumed. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

¹¹⁰ San José Unified School District. *Development Fee Justification Study*. April 2014. Appendix 1.

¹¹¹ City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report*. September 2011. Table 3.9-4.

Standard Permit Condition:

- In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project.

Although residential development under the proposed project would generate new students in the area, the project would conform to Government Code Section 65996, which requires the project to pay school impact fees and is considered adequate mitigation for increased demands upon school facilities. **(Less than Significant Impact)**

d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the 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?

New residents of the site would likely use existing recreational facilities in the area, including Buena Vista Park and Sherman Oaks Community Center. While the new residents would incrementally increase the use of existing recreational facilities in the project area, the proposed project proposes a total of 12,818 square feet of outdoor common open space and 9,412 square feet of indoor amenity space in the proposed buildings, and a 4,450 square-foot paseo behind Building 1. In addition, the project would be consistent with the existing General Plan designation; therefore, would not increase the City's resident population above what was assumed in the General Plan, and would not require new or expanded park facilities beyond what is already planned. The project would conform to the City's Parkland Dedication Ordinance and Park Impact Ordinance, and would be required to pay PDO/PIO fees to offset the increased demand for parks and recreational facilities. The project would be subject to the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition:

- The project shall conform to the City's Park Impact Ordinance and Parkland Dedication Ordinance.

The PDO/PIO fees generated by the residential development would be used to provide neighborhood-serving facilities within a 0.75-mile radius of the project site and/or community-serving facilities within a three-mile radius (General Plan Policies PR-2.4 and PR-2.5). For these reasons, the proposed project would not result in substantial adverse physical impacts associated with the provision of new or physically altered parks and recreational facilities or the need for new or physically altered parks and recreational facilities, the construction of which could cause significant environmental impacts. **(Less than Significant Impact)**

-
- e) **Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the 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?**
-

Full build out of the General Plan would provide approximately 0.68 square feet of library space per capita for the anticipated resident population by 2035, which is above the City's service goal of 0.59 square feet of library space per capita (General Plan Policy ES-2.2). The proposed project is consistent with the existing General Plan designation. For this reason, the proposed project would not require new or expanded library facilities beyond what is already planned in the City to meet service goals or result in a significant impact to library facilities. **(Less than Significant Impact)**

3.15.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant public services impact?

Fire and Police Protection

The geographic area for cumulative fire and police protection services is the City boundaries. Build out of the cumulative projects, including the proposed project, would increase the amount of development and need for fire and police protections services in the City compared to existing conditions. According to the General Plan FPEIR, construction of new fire stations, other than those currently planned, would not be required to provide service to development allowed under the General Plan. The proposed project is consistent with the existing General Plan land use designation. The proposed project would not require new or expanded fire and police facilities beyond what is already planned in the City to meet service goals or result in a significant impact to fire and police facilities. Like the proposed project, all cumulative projects would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies, such as General Plan Policy ES-3.9, to promote public and property safety. For these reasons, the cumulative projects would not result in significant cumulative fire and police impacts.

Schools

The geographic area for cumulative school impacts is the Trace Elementary, Hoover Middle School, and Lincoln High School attendance boundaries, because the project site is located within these school boundaries. According to the General Plan FPEIR, full build out of the General Plan would result in a less than significant impact to schools. The cumulative projects within these enrollment boundaries that include new residential units would generate new students.

As required by California Government Code 65996, the cumulative projects (including the proposed project) shall pay the appropriate school impact fees to the impacted school district to offset the increase demands on school facilities caused by the development. The cumulative projects (including the proposed project), in conformance with California Government Code 65996, would not result in significant cumulative impacts to schools.

Parks

The geographic area for cumulative park impacts is the City boundaries. According to the General Plan FPEIR, full build out of the General Plan would result in a less than significant impact to parks. The implementation of the cumulative projects (including the project) would incrementally increase the demand for park facilities. The cumulative projects would be required to conform to the City's PIO/PDO, thereby reducing their impacts on parks to a less than significant level. **(Less than Significant Cumulative Impact)**

Library

The geographic area for cumulative library impacts is the City boundaries. As discussed under Impact PS-5, full build out of the General Plan would provide approximately 0.68 square feet of library space per capita for the anticipated resident population by 2035, which is above the City's service goal of 0.59 square feet of library space per capita (General Plan Policy ES-2.2). The proposed project is consistent with the existing General Plan designation; therefore, would not require new or expanded library facilities beyond what is already planned in the City to meet service goals or result in a significant impact to library facilities. For these reasons, the cumulative projects would not result in significant cumulative library impacts. **(Less than Significant Cumulative Impact)**

3.16 RECREATION

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

State

Quimby Act – California Code Sections 66475-66478

The Quimby Act (California Government Code Sections 66475-66478) was approved by the California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or provide a combination of the two. As described in *Section 3.15, Public Services*, the City of San José has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

Envision San José 2040 General Plan Policies

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

Envision San José 2040 General Plan Relevant Recreation Policies	
Policy	Description
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy 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.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (Such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Greenprint

To implement the park and recreation policies of the General Plan, the 2000 Greenprint was adopted by the San José City Council in September 2000 to provide staff and decision makers with a strategic plan for expanding recreation opportunities in the City. The 2000 Greenprint identified areas of the City that were underserved by park and recreation facilities and included policies and strategies to correct those deficiencies through the development of additional facilities in those locations. The

City adopted the 2009 Greenprint as an update to the 2000 version. The City is currently in the process of another revision to the plan known as Greenprint Update 2018.

3.16.1.2 *Existing Conditions*

The City of San José currently operates 184 neighborhood parks (including skate parks), 13 community centers, nine regional parks, and over 55 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.

The project site is located within the Central/Downtown Planning Area of San José, portions of which are currently underserved with respect to parklands for the population. The project site is not located within the portions underserved with respect to parklands or community centers for the population.¹¹²

The nearest public park is Buena Vista Park, located on the north side of Scott Street between Menker Avenue and Mayellen Avenue, approximately 0.25 mile southwest of the project site. The park includes two youth playgrounds and picnic areas. The nearest community center is the Sherman Oaks Community Center, located at 1800A Fruitdale Avenue, 0.9 mile southwest of the project site.

3.16.2 Impact Discussion

For the purpose of determining the significance of the project's impact on recreation, a significant impact would occur if the project would:

Thresholds of Significance

- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated;
- b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

3.16.2.1 *Project Impacts*

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

As described in *Section 4.15, Public Services* under Impact PS-4, the project would conform to the City's PDO/PIO to ensure that the development would not significantly impact neighborhood and regional park facilities. **(Less than Significant Impact)**

¹¹² City of San José. *Greenprint 2009 Update*. December 8, 2009. Page 102.

b) 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?

New residents of the site would likely use existing recreational facilities in the area, including Buena Vista Park and Sherman Oaks Community Center. While the new residents would incrementally increase the use of existing recreational facilities in the project area, the proposed project proposes a total of 12,818 square feet of outdoor common open space and 9,412 square feet of indoor amenity space in the proposed buildings, and a 4,450 square-foot paseo behind Building 1. In addition, the project would be consistent with the existing General Plan designation; therefore, would not increase the City's resident population above what was assumed in the General Plan, and would not require new or expanded park facilities beyond what is already planned. The project would conform to the City's Parkland Dedication Ordinance and Park Impact Ordinance, and would be required to pay PDO/PIO fees to offset the increased demand for parks and recreational facilities. The project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition:

- The project shall conform to the City's Park Impact Ordinance and Parkland Dedication Ordinance.

The PDO/PIO fees generated by the residential development would be used to provide neighborhood-serving facilities within a 0.75-mile radius of the project site and/or community-serving facilities within a three-mile radius (General Plan Policies PR-2.4 and PR-2.5). For these reasons, the proposed project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts to parks. **(Less than Significant Impact)**

3.16.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant recreation impact?

The geographic area for cumulative park impacts is the City boundaries. According to the General Plan FPEIR, full build out of the General Plan would result in a less than significant impact to parks. The implementation of the cumulative projects (including the project) would incrementally increase the demand for park facilities. The cumulative projects would be required to conform to the City's PIO/PDO, thereby reducing their impacts on parks to a less than significant level. **(Less than Significant Cumulative Impact)**

3.17 TRANSPORTATION

This discussion is based, in part, on a Transportation Analysis and Transportation Demand Management Plan prepared by Hexagon Transportation Consultants, Inc. on November 20, 2020 and September 8, 2020, respectively. These reports are included in this EIR as Appendix H and Appendix I.¹¹³

3.17.1 Environmental Setting

3.17.1.1 *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 the replacement of automobile delay—described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor’s Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions are required 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.

¹¹³ The Transportation Analysis evaluated a total of 173 dwelling units and 21,164 square feet of commercial use. Since completion of Transportation Analysis, the total commercial development was reduced from 19,600 to 17,836 square feet. The Transportation Analysis is conservative; however, the analysis, conclusions, and recommendations apply to the proposed project.

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.

Bike Plan 2020

The City of San José *Bike Plan 2020*, adopted in 2009, contains policies for guiding the development and maintenance of bicycle and trail facilities within San José. The plan also includes the following goals for improving bicycle access and connectivity: 1) complete 500 miles of bikeways, 2) achieve a five percent bike mode share, 3) reduce bicycle collision rates by 50 percent, 4) add 5,000 bicycle parking spaces, and 5) achieve Gold-Level Bicycle Friendly Community status. The Bike Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

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 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 VMT per employee, or the existing average citywide VMT per capita respectively. 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 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. 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 Circulation Element of the General Plan contains several long-term goals and policies that are intended to:

- Provide a transportation network that is safe, efficient, and sustainable (minimizes environmental, financial, and neighborhood impacts);
- Improve multimodal accessibility to employment, housing, shopping, entertainment, schools, and parks;
- Create a city in which people are less reliant on driving to meet their daily needs; and
- Increase bicycle, pedestrian, and transit travel, while reducing motor vehicle trips.

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the transportation policies in the General Plan, including the following:

Envision San José 2040 General Plan Relevant Transportation Policies	
Policy	Description
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, 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.
Policy TR-1.5	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.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-8.4	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.
Policy TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management program, or developments located near major transit hubs or within Villages and other Growth Areas.
Policy TR-8.8:	Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.

Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-2.3	<p>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.</p> <ul style="list-style-type: none"> • 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. • Create easily identifiable and accessible building entrances located on street frontages or paseos. • Accommodate the physical needs of elderly populations and persons with disabilities. • Integrate existing or proposed transit stops into project designs.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas.
Policy CD-3.3	Within new development, create a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy CD-3.6	Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

In addition to the policies in the General Plan, the proposed project would be required to comply with the San José Residential Design Guidelines with regards to pedestrian access.

3.17.1.2 *Existing Conditions*

The discussion below summarizes the existing conditions for major transportation facilities in the vicinity of the site, including the roadway network, transit services, and bicycle and pedestrian facilities.

Roadway Network

Regional Access

Regional access to the project site is provided via I-880 and I-280. These facilities are described below.

I-880 is a six-lane freeway in the vicinity of the site. It extends north to Oakland and south to I-280 in San José, at which point it makes a transition into SR 17 to Santa Cruz. Access to the site is provided via its interchanges with Stevens Creek Boulevard and I-280.

I-280 is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and east to King Road in San José, at which point it makes a transition into I-680 to Oakland. North of I-880, I-280 has high occupancy vehicle (HOV) lanes in both directions. Access to and from northbound I-280 to the site is provided via ramps at Parkmoor Avenue. Access to and from southbound I-280 to the site is provided via ramps at Moorpark Avenue. Alternative access to I-280 is provided via an interchange at Meridian Avenue.

Local Access

Local access to the site is provided by San Carlos Street/Stevens Creek Boulevard, Leigh Avenue/Shasta Avenue, Dana Avenue, Buena Vista Avenue, Meridian Avenue, and Race Street. These roadways are described below.

San Carlos Street is a divided four-lane, east-west roadway in the vicinity of the project site. It extends from Downtown San José westward to I-880, at which point it transitions into Stevens Creek Boulevard to Cupertino. In the project vicinity, San Carlos Street has a posted speed limit of 35 miles per hour (mph) with sidewalks and on-street parking on both sides of the street and no bike lanes. San Carlos Street runs along the north project frontage and provides direct access to the project site.

Leigh Avenue is a two-lane, north-south roadway that extends southward from San Carlos Street to Blossom Hill Road. North of San Carlos Street, Leigh Avenue transitions to Shasta Avenue. In the project vicinity, Leigh Avenue has a posted speed limit of 25 mph with sidewalks and on-street parking on both sides of the street and no bike lanes. Access to the project site from Leigh Avenue is provided via San Carlos Street.

Dana Avenue is a two-lane, north-south roadway that extends northward from San Carlos Street to Hedding Street. In the project vicinity, Dana Avenue has a posted speed limit of 25 mph with sidewalks and on-street parking on both sides of the street. Dana Avenue is a designated Class III bike route with “sharrows”¹¹⁴ and bike route signage. Access to the project site from Dana Avenue is provided via San Carlos Street.

Buena Vista Avenue is a two-lane, north-south roadway that extends between Martin Avenue and Scott Street. In the project vicinity, Buena Vista Avenue is a residential street with a speed limit of 25 mph and sidewalks and on-street parking on both sides of the street. The roadway has no bike lanes. Buena Vista Avenue runs along the west project frontage. Access to the project site from Buena Vista Avenue is provided via San Carlos Street.

Meridian Avenue is generally a four-lane, north-south arterial that runs northward from Camden Avenue to Park Avenue. The roadway narrows to two lanes between San Carlos Street and Park Avenue. Access to the project site from Meridian Avenue is provided via San Carlos Street.

Race Street is a north-south roadway that runs northward from Fruitdale Avenue to The Alameda. It is a four-lane road between Saddle Rack Street and the I-280 off-ramp and a two-lane road north of Saddle Rack Street and south of the I-280 off-ramp. Bike lanes are provided along both sides of Race

¹¹⁴ Sharrows are a road marking in the form of two inverted V-shapes above a bicycle, indicating which part of a road should be used by cyclists when the roadway is shared with motor vehicles.

Street, between The Alameda and Park Avenue and between San Carlos Street and Parkmoor Avenue. Access to the project site from Race Street is provided via San Carlos Street.

Pedestrian, Bicycle Facilities, and Transit Services

The existing bicycle, pedestrian, and transit facilities in the study area are described below.

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 San Carlos Street. Other pedestrian facilities in the project area include crosswalks and pedestrian push buttons at all signalized study intersections. At the intersection of Buena Vista Avenue and San Carlos Street, marked crosswalks are located along the west, north, and south legs of the intersection.

Pedestrian generators in the project vicinity include commercial areas and bus stops along the San Carlos Street corridor. The project site is within the service boundaries of Trace Elementary School, Herbert Hoover Middle School, and Lincoln High School, all of which are located on Dana Avenue approximately 0.5-miles to 0.75-miles from the project site. Existing sidewalks along San Carlos Street and Dana Avenue provide a pedestrian connection between the project site and pedestrian destinations in the project vicinity. Overall, the existing network of sidewalks and crosswalks provides good connectivity and provides pedestrians with safe routes to transit services and other points of interest in the area.

Bicycle Facilities

There are several bicycle facilities in the vicinity of the project site. Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III).

Class I Bikeways (Bike Paths) are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. The Los Gatos Creek Trail is located in the project area and is a continuous multi-purpose pathway for pedestrians and bicycles that is separated from motor vehicles. It begins at Vasona Lake County Park in the south and continues to West San Carlos Street in the north, all alongside Los Gatos Creek. A connection to the northern segment of the Los Gatos Creek Trail system is located on San Carlos Avenue, approximately 0.85-mile east of the project site.

Class II Bikeways (Bike Lanes) 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.

- San Carlos Street, between Leigh Avenue and Lincoln Avenue (including along the north project frontage)
- Park Avenue, along the entire length of the street.
- Race Street, between The Alameda and Park Avenue; between San Carlos Street and Parkmoor Avenue.
- Lincoln Avenue, between San Carlos Street and Minnesota Avenue.

Class III Bikeways (Bike Routes) are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. In the vicinity of the project site, the following roadway segments are designated as bike routes.

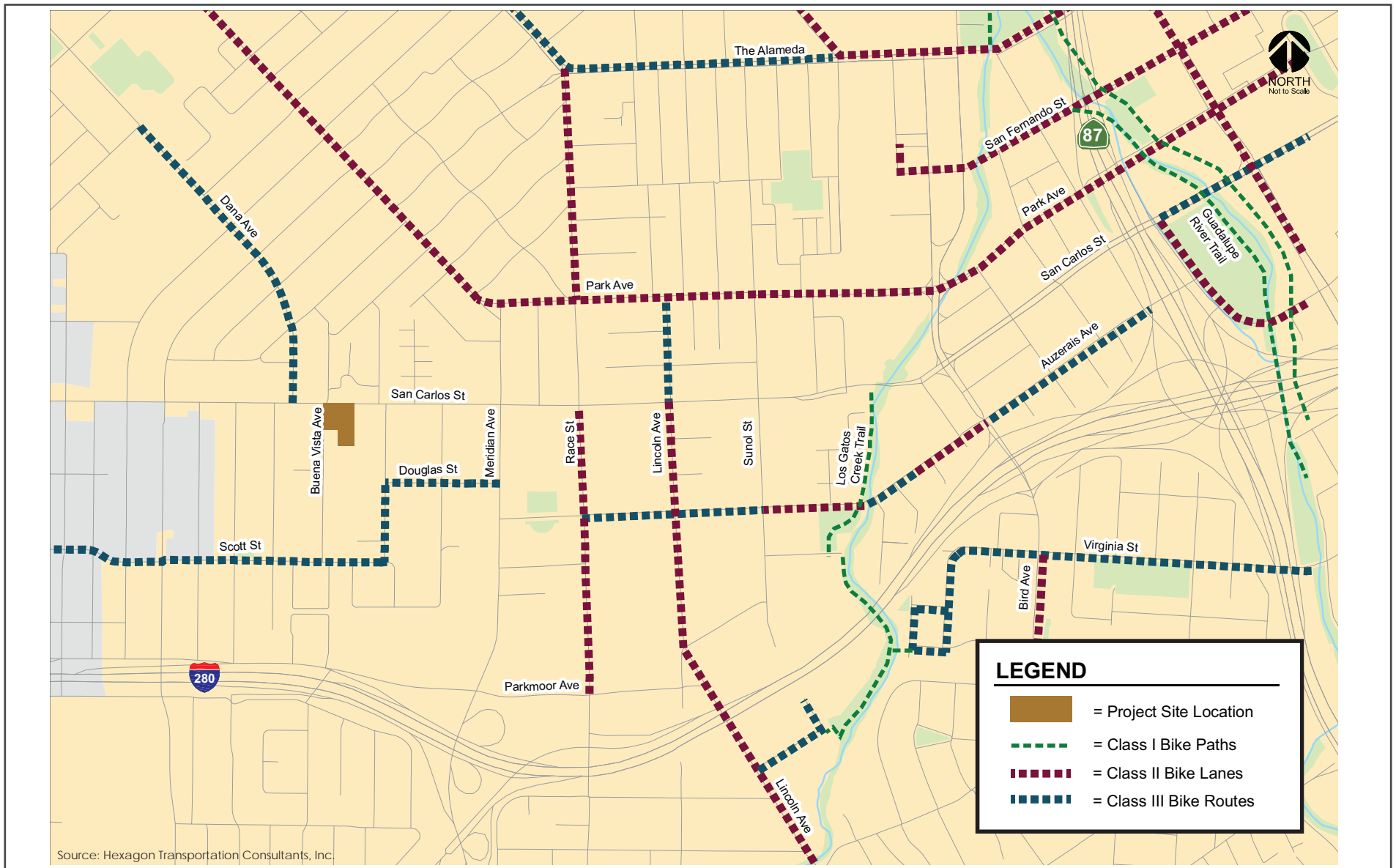
- Dana Avenue, between San Carlos Street and Hedding Street.
- Douglas Street, between Meridian Avenue and Willard Avenue.
- Willard Avenue, between Douglas Street and Scott Street.
- Scott Street, between Willard Avenue and Bascom Avenue.
- Lincoln Avenue, between Park Avenue and San Carlos Street
- Auzerais Avenue, all segments east of Race Street without striped bike lanes

Existing bicycle facilities are shown on Figure 3.17-1.

Transit Facilities

Existing transit services in the study area are provided by the VTA. The Diridon Transit Center is located approximately 1.36 miles northeast of the project site, along Cahill Street. The Diridon Transit Center provides connections between local and regional bus routes, light rail lines, and commuter rail lines. Light Rail Transit (LRT) service at the Diridon Transit Center is provided by the Mountain View-Winchester LRT line (Route 902). Regional commuter rail services provided at the Diridon Transit Center include Caltrain, Altamont Corridor Express Service, and the Amtrak Capitol Corridor.

The project site is primarily served by two VTA bus routes (23 and 523), as described in Table 3.17-1 below. The nearest bus stops to the project site serve Route 23 and are located along both sides of San Carlos Street (near Buena Vista Avenue), approximately 100 feet from the project site. The nearest bus stop serving Route 523 are located at the intersection of Meridian Avenue and San Carlos Street, approximately 0.25-miles from the project site. Existing transit facilities are shown on Figure 3.17-2.



EXISTING BICYCLE FACILITIES

FIGURE 3.17-1



EXISTING TRANSIT FACILITIES

FIGURE 3.17-2

Table 3.17-1: VTA Bus Services in the project area.		
Route	Route Description	Headway¹ (minutes)
23	DeAnza College to Alum Rock Transit Center via Stevens Creek	12 to 15
Rapid Route 523	Berryessa BART to Lockheed Martin via De Anza College	15 to 20
¹ Approximate headways during peak commute periods.		

3.17.1.3 VMT Methodology

Per City Council Policy 5-1, the effects of the proposed project on VMT was evaluated using the methodology outlined in the City's Transportation Analysis Handbook. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle trips with one end within the project. Typically, development projects that are farther from other, complementary land uses (such as a business park far from housing) and in areas without transit or active transportation infrastructure (bike lanes, sidewalks, etc.) generate more driving than development near complementary land uses with more robust transportation options. Therefore, developments located in a central business district with high density and diversity of complementary land uses and frequent transit services are expected to internalize trips and generate shorter and fewer vehicle trips than developments located in a suburban area with low density of residential developments and no transit service in the vicinity.

To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool (sketch tool) to streamline the analysis for development projects. Based on the location of a project, the sketch tool identifies the existing average VMT per capita for the project area.

The sketch tool evaluates a list of selected VMT reduction measures that can be applied to a project to reduce the project VMT. There are four strategy tiers whose effects on VMT can be calculated with the sketch tool:

1. Project characteristics (e.g., density, diversity of uses, design, and affordability of housing) that encourage walking, biking, and transit uses,
2. Multimodal network improvements that increase accessibility for transit users, bicyclists, and pedestrians,
3. Parking measures that discourage personal motorized vehicle trips, and
4. Transportation demand management measures that provide incentives and services to encourage alternatives to personal motorized vehicle trips.

Projects that include residential uses would create a significant adverse impact when the estimated project generated VMT exceeds the existing citywide average VMT per capita minus 15 percent or existing regional average VMT per capita minus 15 percent, whichever is lower. Currently, the reported citywide average is 11.94 VMT per capita, which is less than the regional average. This equates to a significant impact threshold of 10.12 VMT per capita.

If a project is found to have a significant impact on VMT, the impact must be reduced by modifying the project to reduce its VMT to an acceptable level and/or mitigating the impact through multimodal transportation improvements or establishing a Trip Cap.

In addition, The City's Transportation Analysis Handbook identifies screening criteria that determines whether a CEQA transportation analysis would be required for development projects. The criteria are based on the type of project, characteristics, and/or location. If a project meets the City's screening criteria, the project is expected to result in less-than-significant VMT impacts and a detailed CEQA VMT analysis is not required. The type of development projects that may meet the screening criteria include the following:

1. Small infill projects
2. Local-serving retail
3. Local-serving public facilities
4. Projects located in *Planned Growth Areas* with low VMT and *High-Quality Transit*
5. Deed-restricted affordable housing located in *Planned Growth Areas with High-Quality Transit*

The screening criteria for each development type is summarized in Table 3.17-2.

Table 3.17-2: City of San José VMT Screening Criteria for Development Projects	
Type	Screening Criteria
Small Infill Projects	<ul style="list-style-type: none"> • Single-family detached housing of 15 units or less; <u>OR</u> • Single-family attached or multi-family housing of 25 units or less; <u>OR</u> • Office of 10,000 square feet of gross floor area or less; <u>OR</u> • Industrial of 30,000 square feet of gross floor area or less
Local-Serving Retail	<ul style="list-style-type: none"> • 100,000 square feet of total gross floor area or less without drive-through operations
Local-Serving Public Facilities	Local-serving public facilities
Residential/Office Projects or Components	<ul style="list-style-type: none"> • Planned Growth Areas: Located within a Planned Growth Area as defined in the Envision San José 2040 General Plan; AND • High-Quality Transit: Located within ½ a mile of an existing major transit stop or an existing stop along a high-quality transit corridor; AND • Low VMT: Located in an area in which the per capita VMT is less than or equal to the CEQA significance threshold for the land use; AND • Transit-Supporting Project Density: <ul style="list-style-type: none"> ○ Minimum Gross Floor Area Ratio (FAR) of 0.75 for office projects or components; ○ Minimum of 35 units per acre for residential projects or components;

	<ul style="list-style-type: none"> ○ If located in a Planned Growth Area that has a maximum density below 0.75 FAR or 35 units per acre, the maximum density allowed in the Planned Growth Area must be met; <u>AND</u> ● Parking: <ul style="list-style-type: none"> ○ No more than the minimum number of parking spaces required; ○ If located in Urban Villages or Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or “unbundled”, the number of parking spaces can be up to the zoned minimum; <u>AND</u> ● Active Transportation: Not negatively impact transit, bike or pedestrian infrastructure.
Restricted Affordable Residential Projects or Components	<ul style="list-style-type: none"> ● Affordability: 100% restricted affordable units, excluding unrestricted manager units; affordability must extend for a minimum of 55 years for rental homes or 45 years for for-sale homes; <u>AND</u> ● Planned Growth Areas: Located within a Planned Growth Area as defined in the Envision San José 2040 General Plan; <u>AND</u> ● High Quality Transit: Located within ½ a mile of an existing major transit stop or an existing stop along a high quality transit corridor; <u>AND</u> ● Transit-Supportive Project Density: <ul style="list-style-type: none"> ○ Minimum of 35 units per acre for residential projects or components; ○ If located in a Planned Growth Area that has a maximum density below 35 units per acre, the maximum density allowed in the Planned Growth Area must be met; <u>AND</u> ● Transportation Demand Management (TDM): If located in an area in which the per capita VMT is higher than the CEQA significance threshold, a robust TDM plan must be included; <u>AND</u> ● Parking: <ul style="list-style-type: none"> ○ No more than the minimum number of parking spaces required; ○ If located in Urban Villages or Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared, publicly available, and/or “unbundled”, the number of parking spaces can be up to the zoned minimum; <u>AND</u> ● Active Transportation: Not negatively impact transit, bike or pedestrian infrastructure.
Source: City of San José. <i>Transportation Analysis Handbook</i> . April 2018.	

3.17.2 **Impact Discussion**

For the purpose of determining the significance of the project's impact on transportation, a significant impact would occur if the project would:

Thresholds of Significance

- a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes and pedestrian facilities;
- b) For a land use project, conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b);
- c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment);
- d) Result in inadequate emergency access.

3.17.2.1 ***Project Impacts***

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

Pedestrian Facilities

Pedestrian facilities in the study area consist of sidewalks, crosswalks, and pedestrian signals at signalized intersections. Pedestrian generators in the project vicinity include commercial areas and bus stops along the San Carlos Street corridor. The project site is within the service boundaries of Trace Elementary School, Herbert Hoover Middle School, and Lincoln High School, all of which are located on Dana Avenue approximately 0.5-mile to 0.75-mile from the project site. Existing sidewalks along San Carlos Street and Dana Avenue provide a pedestrian connection between the project site and pedestrian destinations in the project vicinity. The project proposes to replace and widen sidewalks along the project frontage on West San Carlos Street and South Buena Vista Avenue. Consistent with the West San Carlos Urban Village Plan and City requirements, the sidewalk widths on West San Carlos Street and South Buena Vista Avenue would be 20 feet and 15 feet, respectively. In addition, the project would install a crosswalk along the east leg of West San Carlos Street/South Buena Vista Avenue intersection via a signal modification, and relocate the existing bus stop located at the southwest corner of the intersection to be moved to the southeast corner of the intersection. The proposed changes would provide the most direct walking routes between the project site and transit stops. In addition, there are pedestrian crosswalks and safety improvements planned for the project area that would help provide the project site with viable connections to the surrounding pedestrian facilities. The proposed project would not exceed the capacity of the existing pedestrian facilities or preclude the construction of planned improvements. **(Less than Significant Impact)**

Bicycle Facilities

The bikeways within the vicinity of the project site would remain unchanged under project conditions. The project would be directly served by a bike lane that runs between Leigh Avenue and

Lincoln Avenue on West San Carlos Street, which runs along the project's northern frontage. In addition, a bike route is located along Dana Avenue, between San Carlos Street and Brooklyn Avenue (near Trace Elementary School). There are bicycle improvements planned for the project area that would help provide the project site with viable connections to the surrounding bicycle facilities (refer to Appendix H for additional details on planned bicycle facilities). For these reasons, the proposed project would not exceed the capacity of the existing bicycle facilities or preclude the construction of planned improvements. **(Less than Significant Impact)**

Transit Operations

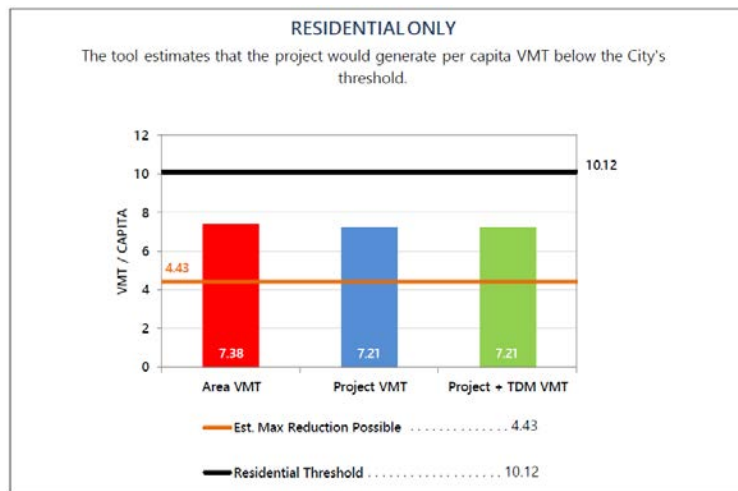
The project site is adequately served by the existing VTA transit services. As mentioned previously, the project site is primarily served by VTA Bus Routes 23 and 523. Additionally, the Diridon Transit Center is located approximately 1.36 miles northeast of the project site, along Cahill Street. The Diridon Transit Center provides connections between local and regional bus routes, light rail lines, and commuter rail lines.

The new transit trips generated by the project would not create demand in excess of the transit service that is currently provided. The proposed project would not alter existing transit facilities or conflict with the operation of existing or planned facilities. Therefore, the proposed project would not interfere with the construction of planned transit facilities nor would the project exceed the capacity of the existing system. **(Less than Significant Impact)**

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

As described above, the City's Transportation Analysis Handbook identifies screening criteria that screens out projects that would have a less than significant VMT impact. The project site is located within a planned Growth Area (West San Carlos Urban Village) with low VMT per capita as identified by the City of San José. West San Carlos Street, located along the north project frontage, is a high-quality transit corridor with VTA bus service headways of less than 15 minutes during peak commute periods. The residential use of the proposed project would meet the applicable residential screening. In addition, the proposed 17,836 square feet retail space is less than the 100,000-square foot retail threshold screening criterion for local-serving retail. Therefore, both the residential and commercial land use components of the project are screened out and would have a less than significant VMT impact. A detailed CEQA transportation analysis that evaluates the project's effects on VMT is not required.

However, for informational purposes, a VMT evaluation for the project's residential component was completed. The results of the VMT evaluation, using the City's VMT Evaluation Tool, indicate that the proposed project is expected to generate a daily per capita VMT of 7.21, below the significant impact threshold of 10.12 daily per capita VMT.



Therefore, the project would not result in a significant impact on the transportation system based on the City's VMT criteria. Refer to Appendix H for additional details on the VMT evaluation. **(Less than Significant Impact)**

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

The following site access and circulation evaluation is based a review of the project site plan. Site access was evaluated to determine the adequacy of the site's access points with regard to the following: traffic volume, delays, vehicle queues, geometric design, and corner sight distance. On-site vehicular circulation was reviewed in accordance with the City of San José Zoning Code and generally accepted traffic engineering standards.

Site Access

Vehicular access to the project site is proposed via a right-in, right-out 26-foot driveway along the north project frontage on West San Carlos Street, approximately 80 feet east of the Buena Vista Avenue and West San Carlos Street intersection. The project driveway would meet the City's minimum 26-foot width for two-way multi-family residential driveways.

Driveway Operations

Based on the project trip generation and trip assignment, it is estimated that the project driveway would serve 22 inbound trips and 43 outbound trips during the AM peak hour and 63 inbound trips and 53 outbound trips during the PM peak hour. Entry gates are not indicated on the site plan. Therefore, inbound queueing into the parking garage is not anticipated.

Site Distance

Adequate sight distance would be required at the project driveway along San Carlos Street. Adequate sight distance shall be provided at the project driveway in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. The minimum acceptable sight distance is often considered the AASHTO stopping sight distance. Sight distance requirements vary

depending on the roadway speeds. San Carlos Street has a posted speed limit of 35 mph. The AASHTO stopping sight distance for a facility with a posted speed limit of 35 mph is 250 feet. Thus, a driver exiting the proposed project driveway on West San Carlos Street must be able to see 250 feet to the west along West San Carlos Street in order to stop and avoid a collision.

Although the proposed project driveway would be located only 80 feet east of the intersection of Buena Vista Avenue and West San Carlos Street, vehicles exiting the project site driveway would be able to see approaching traffic on eastbound San Carlos Street at least to Dana Avenue located approximately 400 feet to the west. Therefore, the project driveway would meet the AASHTO minimum stopping sight distance standards. **(Less than Significant Impact)**

On-Site Circulation

The proposed site plan would provide vehicle traffic with adequate connectivity throughout the parking garage.

Truck Access

According to the City of San José Zoning Regulations, the project is not required to provide an off-street loading space for the residential or commercial uses. A move-in loading space would be provided at the southern end of the entry drive aisle, approximately 200 feet south of the project driveway. The loading space is shown to be 40 feet long and 10 feet wide, and would meet the City's minimum dimensions for off-street loading spaces. Furthermore, the proposed project would be subject to City review to ensure compliance with traffic engineering standards and transportation planning principles. With inclusion of the above recommendations identified in the Transportation Analysis (refer to Appendix H for additional details), the project would not increase hazards due to a design feature. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The site plan indicates that fire trucks would have access to the entry drive aisle between the project driveway and approximately 150 feet south to the ground-floor parking level entrance. The proposed project site design would be required to provide adequate corner radii, driveway width, parking dimensions, and signage to satisfy the City of San José design standards. As such, the proposed project would have a less than significant emergency vehicle access impact. **(Less than Significant Impact)**

3.17.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant transportation impact?

Projects must demonstrate consistency with the Envision San José 2040 General Plan to address cumulative impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan goals and policies. If a project is determined to be

inconsistent with the General Plan, a cumulative impact analysis is required per the City's Transportation Analysis Handbook.

As discussed in Section 3.11 Land Use and Planning, the proposed project is consistent with the General Plan. The project site is located within the West San Carlos Urban Village, which identifies the following goals to improve alternative transportation options.

- Make transit a more desirable option within the Urban Village.
- Develop safe and direct pedestrian and bicycle connections (sidewalks or pathways) between transit stops and local destinations.
- Improve roadway crossings through high-visibility treatments and shorter crossing distances, especially where transit stops are located.
- Enhance the environment around transit stops and improve the overall transit rider/pedestrian/bicyclist experience at bus stops.

The project is consistent with the General Plan and West San Carlos Urban Village goals and policies for the following reasons:

- The proposed residential uses for the project site are consistent with the Urban Village land use designation per the West San Carlos Urban Village plan.
- The project frontage along San Carlos Street will be consistent with planned streetscape design features West San Carlos Urban Village Plan.
- The project site is within walking distance (less than 100 feet) of bus stops on San Carlos Street.

For these reasons, the project would be consistent with the General Plan, and would be considered as part of the cumulative solution to meet the General Plan's long-range transportation goals. The project would result in a less than significant cumulatively considerable impact. **(Less than Significant Cumulative Impact)**

3.17.3 Non-CEQA Effects

As noted above, with the passage of SB 743 amending CEQA's evaluation of transportation impacts and the effective date of the Guidelines implementing SB 743, a project's effects on Level of Service shall no longer be considered an impact on the environment. The following discussion is included because the City of San José has policies that address Level of Service as a planning or growth management matter, outside the CEQA process. In the event a deficient LOS condition is identified, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the level of service, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, and not whether Level of Service has degraded below the condition considered acceptable.

Methodology

Consistent with City requirements, an LTA was completed for the project. The Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition (2017) was utilized to calculate the vehicle trips generated by the proposed project.

Trip Generation¹¹⁵

In accordance with San José's Transportation Analysis Handbook, the project is eligible for adjustments and reductions from the gross trip generation (refer to Appendix H for additional details). As shown in Table 3.17-3, after applying the ITE trip rates, appropriate trip reductions, and existing site trip credits, it is estimated that the project would generate an additional 1,130 daily vehicle trips, with 64 trips (22 inbound and 42 outbound) occurring during the AM peak hour and 93 trips (53 inbound and 41 outbound) occurring during the PM peak hour.

Table 3.17-3: Project Trip Generation Estimates								
Land Use	Size	Daily Trips	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Proposed Land Uses								
Multi-family Housing (Mid-Rise) ¹	173 dwelling units	941	16	46	62	46	30	76
Residential – Retail Internal Reduction ²		-120	-1	-2	-3	-6	-6	-12
<i>Location Based Reduction³</i>		-107	-2	-6	-8	-5	-3	-8
<i>VMT Reduction⁴</i>		-16	0	-1	-1	-1	0	-1
Shopping Center ¹	21,164 square feet	799	12	8	20	39	42	81
<i>Residential – Retail Internal Reduction²</i>		-120	-2	-1	-3	-6	-6	-12
<i>Location Based Reduction²</i>		-88	-1	-1	-2	-4	-5	-9
Project Trips After Reductions		1,289	22	43	65	63	53	115
Existing Land Use								
Sit-Down Restaurant ⁵	2,250 square feet	-147	0	0	0	-9	-12	-21

¹¹⁵ The Transportation Analysis evaluated a total of 173 dwelling units and 21,164 square feet of commercial use. Since completion of Transportation Analysis, the total commercial development was reduced from 19,600 to 17,836 square feet. The Transportation Analysis is conservative; however, the analysis, conclusions, and recommendations apply to the proposed project.

Single-Family Detached Housing ⁵	8 dwelling units	-12	0	-1	-1	-1	0	-1
<i>Total Credit for Existing Land Uses</i>		<i>-159</i>	<i>0</i>	<i>-1</i>	<i>-1</i>	<i>-10</i>	<i>-12</i>	<i>-22</i>
Net Project Trips		1,130	22	42	64	53	41	93

Notes:

¹ Source: ITE Trip Generation Manual, 10th Edition 2017, average trip generation rates.

² As prescribed by the Transportation Impact Analysis Guidelines from VTA (October 2014), the maximum trip reduction for a mixed-use development project with residential and retail is equal to 15% off the smaller trip generator.

³ The project site is located within an urban low-transit area based on the City of San José VMT Evaluation Tool (March 14, 2018). The location-based vehicle mode shares are obtained from Table 6 of the City of San José Transportation Analysis Handbook (April 2018). The trip reductions are based on the percent of mode share for all of the other modes of travel besides vehicle.

⁴ VMT per capita for residential use. Existing and project VMTs were estimated using the City of San José VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-capita is equivalent to one percent reduction in peak-hour vehicle trips.

⁵ Trips for the existing on-site uses were obtained from driveway counts conducted March 2019.

Intersection Operations Analysis

Traffic conditions at four signalized intersections in the project area were evaluated using Level of Service (LOS) and compared to the City's Transportation Analysis Handbook standards. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. Table 3.17-4 and Table 3.17-5 below show the existing, background, background plus project, and cumulative intersection operations analysis results. Background conditions reflect trips from approved but not yet constructed or occupied developments in the vicinity. Cumulative traffic volumes reflect trips from pending developments in the area, approved developments, and the proposed project. Refer to Appendix H for a full list of cumulative projects.

Table 3.17-4: Existing, Background, and Background Plus Project Intersection Levels of Service

Intersection	LOS Standard	Peak Hour	Existing		Background		Background Plus Project			
			Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Increase in Critical Delay	Increase in Critical V/C
Buena Vista Avenue and San Carlos Street	D	AM	22.3	C	22.3	C	22.4	C	0.0	0.006
		PM	16.9	B	16.9	B	17.9	B	1.6	0.022
Meridian Avenue and San Carlos Street	D	AM	39.7	D	41.5	D	41.5	D	0.0	0.002
		PM	44.5	D	49.4	D	49.6	D	0.4	0.008
Race Street and San Carlos Street	D	AM	39.1	D	39.0	D	39.2	D	0.2	0.004
		PM	39.5	D	39.5	D	39.9	D	0.5	0.008
Leigh Avenue/Shasta Avenue and San Carlos Street	D	AM	26.2	C	26.1	C	26.1	C	-0.1	0.002
		PM	26.8	C	27.1	C	27.1	C	0.0	0.004
Bold text indicates intersections operates at unacceptable level of service. Bold and highlighted text indicates adverse operations effect caused by the project. LOS = Level of Service, V/C = volume-to-capacity ratio, AM = morning peak hour (between 7:00 and 9:00 AM), PM = evening peak hour (between 4:00 and 6:00 PM).										

Table 3.17-5: Cumulative and Cumulative Plus Project Intersection Levels of Service								
Intersection	LOS Standard	Peak Hour	Cumulative		Cumulative Plus Project			
			Average Delay	LOS	Average Delay	LOS	Increase in Critical Delay	Increase in Critical V/C
Buena Vista Avenue and San Carlos Street	D	AM	22.3	C	22.3	C	0.0	0.006
		PM	16.8	B	17.8	B	1.6	0.022
Meridian Avenue and San Carlos Street	D	AM	42.2	D	42.2	D	0.0	0.002
		PM	50.2	D	50.4	D	0.5	0.008
Race Street and San Carlos Street	D	AM	39.1	D	39.2	D	0.2	0.004
		PM	39.5	D	39.9	D	0.5	0.008
Leigh Avenue/Shasta Avenue and San Carlos Street	D	AM	29.4	C	29.4	C	0.1	0.005
		PM	30.4	C	30.6	C	0.5	0.010
Bold text indicates intersections operates at unacceptable level of service. Bold and highlighted text indicates adverse operations effect caused by the project.								
LOS = Level of Service, V/C = volume-to-capacity ratio, AM = morning peak hour (between 7:00 and 9:00 AM), PM = evening peak hour (between 4:00 and 6:00 PM).								

As shown in Table 3.17-4 and Table 3.17-5, all signalized intersections currently operate at an acceptable LOS D or better. Under background, background plus project, and cumulative conditions during both AM and PM peak hours, all signalized intersections would continue to operate at acceptable levels of service.

Observed Existing Traffic Conditions

Traffic conditions in the field were observed in order to identify existing operational deficiencies and to confirm the accuracy of calculated levels of service. The purpose of this effort was (1) to identify any existing traffic problems that may not be directly related to intersection level of service, and (2) to identify any locations where the level of service calculation does not accurately reflect level of service in the field.

Field observations revealed the following operational problems that may not be reflected the LOS calculations:

In general, San Carlos Street experiences heavy congestion during the weekday PM peak hour in the eastbound direction in the project vicinity. The congestion is made worse by the close spacing of several signalized intersections along the roadway. At its intersection with Meridian Avenue, vehicles within the through-movement lanes frequently do not clear at the eastbound approach within the allotted green time during the PM peak hour, causing queues to extend to upstream intersections. The through-movement queues frequently blocked access to the eastbound left-turn pocket. Additionally, heavy east-west pedestrian volumes along the south approach of the San Carlos/Meridian intersection were observed to cause delays to right-turning vehicle traffic. Since the

eastbound approach provides a shared through- and right-turn lane, the delays also impacted through-movement traffic at the intersection.

Spillback from the eastbound through-movement queues at San Carlos Street/Meridian Avenue frequently extended past the eastbound left-turn pocket providing access to Muller Place. The spillback also frequently extended past the San Carlos Street/Buena Vista Avenue intersection, causing vehicles to wait behind the stop bar during their allotted green time. The through-movement queues sometimes blocked access to the eastbound left-turn pocket.

All other study intersections operate without any major operational problems.

Queueing Analysis

The analysis of intersection operations was supplemented with a vehicle queueing analysis at intersections where the project would add a substantial number of trips to the left-turn movements. The queueing analysis is presented for informational purposes only, since the City of San José has not defined a policy related to queueing. Based on the Transportation Analysis, the queues at high-demand movements would be served by the existing queue storage space at all study intersections under existing, background and background plus project conditions. Refer to Appendix H for additional details.

Parking

Vehicle Parking

The project as proposed would construct 173 multi-family residential units and 17,836 square feet of commercial space. The required parking based on the City of San José off-street parking requirements (Section 20.90.060) is 326 parking spaces before any reductions. The project is proposing to provide a total of 189 parking spaces, which represents a 43.5-percent reduction in on-site parking spaces from the baseline of 333 parking spaces. A 20 percent reduction in required off-street vehicle parking spaces is allowed with a development permit, for developments that meet the following conditions (Section 20.90.220.A.1):

1. The structure or use is located within two thousand feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the city's General Plan, or the use is listed in Section 20.90.220.G; and
2. The structure or use provides bicycle parking spaces in conformance with the City's Zoning Code requirements.

The project site is within the West San Carlos Urban Village and the project proposes to provide bicycle parking that would exceed the City's bicycle parking requirements (discussed below). Therefore, the vehicle parking requirement would be reduced by 20 percent to 267 vehicle parking spaces. The project proposes an additional 23.5 percent reduction in on-site parking spaces. Therefore, the project would be required to have an approved TDM plan for a total parking reduction of 43.5 percent. The TDM plan would need to include at least three TDM measures specified in City Code Subsections c and d of Section 20.90.220.A.1. It should also be noted that the proposed

reduction in off-street parking for the project would be consistent with the West San Carlos Urban Village Plan which encourages all developments within the plan area to strive for the City's maximum 50 percent reduction in required off-street parking spaces.

Per the 2016 California Building Code (CBC) Table 11B-208.2, six ADA accessible spaces are required for projects with 151 to 200 parking spaces. Of the required accessible parking spaces, one van accessible space is required. The site plans indicate eight accessible spaces within the ground-floor parking level.

Bicycle Parking

According to the City's Bicycle Parking Standards (Chapter 20.90, Table 20-210), the project is required to provide a total of 52 bicycle parking. Of the required residential bicycle parking, City standards require that at least 60 percent be secured long-term bicycle spaces and at most 40 percent be short-term bicycle spaces. Of the required commercial bicycle parking, City standards require that at least 80 percent be short-term bicycle spaces and at most 20 percent be secured long-term bicycle spaces.^{116,117}

The project site plan shows bicycle parking would be provided within a room located between the ground-floor commercial space and parking area. The bicycle storage room is accessible from the San Carlos Street frontage via a walkway that runs along the east side of the entry drive aisle and along the north side of the parking area. Per the site plan, a total of 65 spaces are provided within the storage room and an additional eight bicycles spaces are provided within the ground-floor parking area, which equates to 89 percent of secure long-term bicycle spaces and 11 percent of short-term bicycle spaces. The 73 total bicycle parking spaces proposed on-site would exceed the City's requirement for on-site bicycle parking.

¹¹⁶ Long-term bicycle parking facilities are secure bicycle storage facilities for tenants of a building that fully enclose and protect bicycles and may include:

- A covered, access-controlled enclosure such as a fenced and gated area with short-term bicycle parking facilities,
- An access-controlled room with short-term bicycle parking facilities, and
- Individual bicycle lockers that securely enclose one bicycle per locker.

¹¹⁷ Short-term bicycle parking facilities are accessible and usable by visitors, guests, or business patrons and may include:

- Permanently anchored bicycle racks,
- Covered, lockable enclosures with permanently anchored racks for bicycles,
- Lockable bicycle rooms with permanently anchored racks, and
- Lockable, permanently anchored bicycle lockers.

3.18 TRIBAL CULTURAL RESOURCES

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

Assembly Bill (AB) 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, 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 when it is concluded that mutual agreement cannot be reached.

Under AB 52, a 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 Resources¹¹⁸
 - 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.

3.18.1.2 *Existing Conditions*

The Ohlone tribe has sent a written request for notification of projects citywide to the City of San José. As discussed in Section 3.5 Cultural Resources, the project site is not located within an area of high archaeological sensitivity.

3.18.2 Impact Discussion

For the purpose of determining the significance of the project's impact on tribal cultural resources, a significant impact would occur if the project would 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:

¹¹⁸ See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

Thresholds of Significance

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

3.18.2.1 *Project Impacts*

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

Based on available data, the project site has low archaeological sensitivity. In addition, any prehistoric surface features or landscapes have been modified over time due to development of the project site and area. To date, the tribe has not initiated formal consultation.

Any subsurface artifacts or human remains found on-site would be addressed consistent with the Standard Permit Conditions identified in Section 3.5 Cultural Resources. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **(Less than Significant Impact)**

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

In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. No tribes have sent written requests for notification of projects to the City of San José. Furthermore, City staff contacted a local tribe on January 27, 2020, requesting confirmation of consultation within 30 days. Staff did not receive a formal request for consultation within that time period.

No tribal cultural resources have been identified at the project site. While there is the potential for unknown Native American resources or human remains to be present in the project area, impacts would be less than significant with implementation of the City's standard permit conditions related to discovery of archaeological resources or human remains. **(Less than Significant Impact)**

3.18.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant tribal cultural resources impact?

The geographic area for cumulative impacts to tribal cultural resources for the proposed project is the project site and adjacent parcels because it is assumed the surrounding projects would affect similar tribal cultural resources. The development of cumulative projects in proximity to the project site, in conjunction with the development of the proposed project, could significantly impact unknown tribal cultural resources, which could include buried archaeological resources. Each development project, however, is subject to federal, state, and local regulations (NRHP, CRHR, California Public Resources Code, California Code of Regulations [Title 14 Section 1427], California Health and Safety Code, California Public Resources Code [Section 5097.5], AB 52, CEQA, and San José General Plan policies and Municipal Code put in place to protect resources that could be considered tribal cultural resources. **(Less than Significant Cumulative Impact)**

3.19 UTILITIES AND SERVICE SYSTEMS

3.19.1 Environmental Setting

3.19.1.1 *Regulatory Framework*

State

Assembly Bill 939

Assembly Bill 939, signed in 1989, established the California Integrated Waste Management Board (CIWMB; now the California Department of Resources Recycling and Recovery [CalRecycle]) and required all California counties to prepare integrated waste management plans. AB 939 also required all municipalities to divert 50 percent of the waste stream by the year 2000.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource 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 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the utilities and services policies of the City's General Plan, including the following:

Envision San José 2040 General Plan Relevant Utilities and Service Systems Policies	
Policy	Description
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit. 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.

Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

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

San José Zero Waste Strategic Plan/Green Vision

The Green Vision 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 Green Vision goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

Private Sector Green Building Policy

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

3.19.1.2 Existing Conditions

The project site is currently developed with commercial and residential uses that require water, wastewater, and solid waste utilities.

Water Service

Water service is provided to the site by the San José Water Company. There are no existing recycled water lines in the project area.¹¹⁹

The project site has an existing water demand of approximately 6,575 gallons per day (gpd).¹²⁰

Sanitary Sewer/Wastewater Treatment

Sanitary sewer lines serving the site are owned and maintained by the City of San José. There is an existing 10-inch sanitary sewer main in West San Carlos Street.

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso. The RWF has the capacity to treat 167 million gallons per day of sewage during dry weather flow.¹²¹ In 2018, the RWF's average dry weather effluent flow was 79.4 million gallons per day.¹²² Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 million gallons per day of dry weather sewage flow. The City's share of the RWF's treatment capacity is 108.6 million gallons per day; therefore, the City has approximately 38.8 million gallons per day of excess treatment capacity.¹²³

The existing development on the project site generates approximately 4,678 gpd of wastewater.¹²⁴

Stormwater Drainage

The project site is located in a developed area served by an existing storm drainage system. The project site is currently developed with commercial and residential uses and associated parking. The site contains approximately 48,967 square feet (84 percent) of impervious surfaces and 9,094 square feet (16 percent) of pervious surfaces.

Storm drainage lines in the project area are owned and maintained by the City of San José, including a 27-inch storm drain line in West San Carlos Street.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each

¹¹⁹ City of San José. "Recycled Water." Accessed: July 26, 2019. Available at:

<https://www.sanjoseca.gov/index.aspx?nid=1586>.

¹²⁰ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

¹²¹ City of San José. "San José/Santa Clara Regional Wastewater Facility." Accessed: July 29, 2019. Available at: <http://www.sanjoseca.gov/index.aspx?NID=1663>.

¹²² City of San José. *San José-Santa Clara Regional Wastewater Facility 2018 Annual Self-Monitoring Report*. 2018. Page 4.

¹²³ City of San José. *Envision San José 2040 General Plan FPEIR*. September 2011. Page 648.

¹²⁴ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.¹²⁵ Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

The project site currently generates approximately 312 pounds of solid waste per day.¹²⁶

3.19.2 Impact Discussion

For the purpose of determining the significance of the project's impact on utilities and service systems, a significant impact would occur if the project would:

- a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects;
- b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years;
- c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments;
- d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals;
- e) Be noncompliant with federal, state, and local management and reduction statutes and regulations related to solid waste.

3.19.2.1 *Project Impacts*

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

Water and Wastewater

The development proposed is consistent with General Plan growth projections and would not substantially increase water or wastewater volumes such that relocation or construction of new water or wastewater treatment facilities would be required. The Envision San José 2040 General Plan FPEIR identified an excess treatment capacity of 38.8 million gallons per day from San José wastewater sources. The RWF has millions of gallons of daily wastewater treatment capacity remaining for the City of San José. The project's water demand and wastewater generation are discussed under Impacts UTL-2 and UTL-3. Based on the project's water demand and wastewater

¹²⁵ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

¹²⁶ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

generation estimates, development of the site under the proposed project would not substantially increase wastewater treatment demand.

The proposed project would comply with all applicable Public Works requirements to ensure sanitary sewer and water mains would have capacity for sewer and water services. Therefore, the project would not have a significant impact related to the provision of water and sewer service for the project. **(Less than Significant Impact)**

Stormwater Drainage

The project site is currently developed with residential and commercial uses and associated paved parking. Runoff from the project site currently enters the storm drainage system untreated and unimpeded. The project proposes to construct two mixed-use buildings. The project would have 49,498 square feet (85 percent) of impervious surfaces, and 8,563 square feet (15 percent) of pervious surfaces. The project proposes to connect to the 27-inch storm drain in West San Carlos Street. The project would increase the site's impervious surfaces by approximately 531 square feet. While the project would increase the impervious surfaces on-site, the project would install filtration areas, bioretention areas, and flow-through planters, removing pollutants and decreasing the rate and volume of stormwater runoff entering the City storm drainage system. The project would also comply with the San Francisco Bay MRP. For these reasons, development of the project site would not exceed the capacity of the existing storm drainage system serving the project site. **(Less than Significant Impact)**

Other Utilities

The project would utilize existing utility connections to connect to the City's electric, natural gas, and telecommunications systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would have a less than significant impact on these facilities. **(Less than Significant Impact)**

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

As discussed above, the existing water on-site demand is approximately 6,575 gpd. It is estimated that the project would have a water demand of approximately 57,321 gpd, resulting in a net increase of 50,746 gpd.¹²⁷

The General Plan FPEIR determined that the City's water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan policies, existing regulations, adopted plans and other City policies would continue to require water conservation measures be incorporated in new development which would substantially reduce water demand. In addition, the General Plan FPEIR concluded that with implementation of General Plan

¹²⁷ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

water conservation policies and regulations, full build out under the General Plan would not exceed the available water supply under standard and drought conditions.

The project would be consistent with planned growth in the General Plan and would comply with the policies and regulations identified in the General Plan FPEIR. As a result, implementation of the proposed project would have a less than significant impact on the City's water supply. **(Less than Significant Impact)**

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

Pursuant to the federal Clean Water Act and California's Porter-Cologne Water Quality Control Act, the RWQCB regulates wastewater discharges to surface waters, such as San Francisco Bay, through the NPDES program. Wastewater permits contain specific requirements that limit the pollutants in discharges.

Sanitary sewer lines serving the site are owned and maintained by the City of San José. The project would include lateral connections to the existing 10-inch sanitary sewer main in West San Carlos Street. As discussed above, the existing development on the project site generates approximately 4,678 gpd of wastewater.¹²⁸ Redevelopment of the site under the proposed project would result in wastewater generation of approximately 35,201 gpd, resulting in an increase of 30,523 gpd of wastewater compared to current baseline conditions.¹²⁹

As discussed above, the Envision San José 2040 General Plan FPEIR identified an excess treatment capacity of 38.8 million gallons per day from San José wastewater sources. The RWF has millions of gallons of daily wastewater treatment capacity remaining for the City of San José. Development of the site under the proposed project would not substantially increase wastewater treatment demand or result in exceedances of RWQCB's treatment requirements for the RWF. **(Less than Significant Impact)**

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

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

¹²⁸ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

¹²⁹ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

As discussed above, the project site currently generates approximately 312 pounds of solid waste per day.¹³⁰ Implementation of the project would generate approximately 556 pounds of solid waste per day, a net increase of 244 pounds compared to existing conditions.¹³¹ Santa Clara County's IWMP was approved by the California Integrated Waste Management Board in 1996 and reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.¹³² The project would be required to conform to City plans and policies to reduce solid waste generation and would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure. **(Less than Significant Impact)**

3.19.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant utilities and service systems impact?

Water Supply

The geographic area for cumulative water supply impacts is San José Water Company's service area. As discussed above, the project is consistent with the development of the General Plan growth projections. As discussed above, the General Plan FPEIR concluded that with implementation of General Plan water conservation policies and regulations, full build out under the General Plan would not exceed the available water supply under standard and drought conditions. **(Less than Significant Cumulative Impact)**

Wastewater

The geographic area for cumulative wastewater treatment impacts is the service area of the RWF. As discussed above, the project is consistent with the development of the General Plan growth projections. The Envision San José 2040 General Plan FPEIR identified an excess treatment capacity of 38.8 million gallons per day from San José wastewater sources; therefore, the project would have a less than significant cumulative impact to the City's wastewater capacity. **(Less than Significant Cumulative Impact)**

Storm Drainage

The geographic area for cumulative storm drain impacts includes the nearby areas upstream and downstream of the project site. As discussed above, while the project would slightly increase the impervious surfaces on-site, it would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the MRP by installing filtration areas, bioretention areas, and flow-through planters to reduce stormwater runoff entering the City's storm drainage system. For these reasons, the project would not have a cumulative impact on the City's storm drainage system. **(Less than Significant Cumulative Impact)**

¹³⁰ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

¹³¹ Illingworth & Rodkin, Inc. *1530-1536-1544 West San Carlos Air Quality & Greenhouse Gas Assessment*. March 26, 2020. Attachment 2.

¹³² Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

Other Utilities

The geographic area for cumulative electric, natural gas, and telecommunications systems impacts is the City. The project would utilize existing utility connections to connect to the City's electric, natural gas, and telecommunications systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the proposed project. As a result, the proposed project would not have a cumulative impact on these facilities. **(Less than Significant Cumulative Impact)**

Solid Waste

The geographic area for cumulative landfill impacts is the County. The Envision San José 2040 General Plan FPEIR concluded build out of the General Plan would have a less than significant solid waste impact. As discussed above, the project is consistent with the development of the General Plan growth projections, and the County has adequate disposal capacity beyond 2030.¹³³ In addition, the project would be required to conform to City plans and policies to reduce solid waste generation and would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. For these reasons, the proposed project would have a less than significant cumulative impact to solid waste disposal. **(Less than Significant Cumulative Impact)**

¹³³ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

3.20 WILDFIRE

3.20.1 Environmental Setting

The project site is located in an urbanized area of San José. The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones.¹³⁴

3.20.2 Impact Discussion

For the purpose of determining the significance of the project's impact on wildfire, if located in or near state responsibility areas or lands classified as very high fire hazard severity zones, a significant impact would occur if the project:

Thresholds of Significance

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan;
- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire;
- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment;
- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

3.20.2.1 *Project Impacts*

As discussed above, 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)**

3.20.2.2 *Cumulative Impacts*

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 cumulative wildfire impacts. **(No Cumulative Impact)**

¹³⁴ California Department of Forestry & Fire Protection. *Santa Clara County Very High Fire Hazard Severity Zones*. October 8, 2008.

SECTION 4.0 GROWTH-INDUCING IMPACTS

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

For the purposes of this project, a growth inducing impact is considered significant if the project would:

Thresholds of Significance

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local Envision San José 2040 General Plans).

The proposed project is consistent with the existing General Plan land use designation; therefore, it is consistent with its growth projections. The project proposes to intensify the use of the site by redeveloping it with high-density development. The site is surrounded by existing infrastructure and both existing and planned development. Development of the proposed project would not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

The proposed project would place new residences and commercial uses within the West San Carlos Urban Village, an area designated for new housing and job growth consistent with the City's General Plan. Therefore, the project would not have a significant growth inducing impact.

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address “significant irreversible environmental changes which would be involved in the proposed project, should it be implemented.” [§15126(c)]

Future development on-site would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including petroleum-based products and metals that cannot reasonably be re-created. Construction also involves the significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants may use non-renewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new buildings would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed to minimum LEED certification standards, consistent with the requirements of the City of San José Green Building Ordinance. In addition, the site provides an increase in housing that is in close proximity to transportation networks than housing farther away in the south county and other counties to the north. The proposed project would, therefore, facilitate a more efficient use of resources over the lifetime of the project.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following significant unavoidable impact has been identified as a result of the project:

Impact CUL-1: The project would cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Significant Unavoidable Impact)**

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in this EIR.

SECTION 7.0 ALTERNATIVES

7.1 OVERVIEW

The California Environmental Quality Act (CEQA) requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

Section 15126.6(a). Consideration and Discussion of Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Section 15126.6(b). Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

7.2 SIGNIFICANT IMPACTS FROM THE PROJECT

As mentioned above, the CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project, and would achieve most of the project objectives. Impacts that would be significant include:

Impact CUL-1: The project would cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Significant Unavoidable Impact)**

7.3 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must include a statement of the objectives sought by the proposed project. While CEQA does not require that alternatives be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration.

The stated objectives of the project proponent includes the following:

Primary objectives of this project are to comply with the Vision for Growth as set forth by the City of San José in the West San Carlos Urban Village Plan. These objectives include:

1. Job growth by providing neighborhood-supportive retail spaces along West San Carlos Street, providing a minimum 0.3 FAR of commercial space to meet the goals of the West San Carlos Urban Village Plan.
2. New housing units to help with the City's housing demand, the minimum density this project is trying to achieve is 110 DU/AC.
3. Increase tax revenue compared to existing conditions.
4. Create well-connected neighborhood by expanding sidewalk width plus activating the street frontage with commercial/retail uses.
5. Provide a new 30-foot wide paseo (park) space at the south edge of site¹³⁵
6. Incorporate Mid-Century Modern design elements and Public Art into the project to reinforce the unique character of the neighborhood
7. Provide opportunities for social gathering such as the paseo and activated streetscape, to foster community spirit

7.4 FEASIBILITY OF ALTERNATIVES

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. The Guidelines advise that such factors *can* include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can “reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1]).”

¹³⁵ As shown in Figure 2.2-5, the West San Carlos Urban Village Plan identifies a “Potential Paseo” on the southern West San Carlos Urban Village boundary between Meridian Avenue and South Buena Vista Avenue. The “Potential Paseo” category is used to designate lands that can be publicly- or privately owned that are intended to be programmed for active or passive linear open space. According to the West San Carlos Urban Village Plan, as more development comes to the area, there will be an opportunity to create a linked chain of park space through these linear planted buffer strips. (Source: City of San José. *West San Carlos Urban Village Plan*. Adopted May 8, 2019. Pages 28 and 41.)

The proposed project currently proposes a privately accessible 30-foot wide paseo on the southern portion of the site. The City will require an Irrevocable Offer of Dedication for Public Accessibility to be recorded against the property encompassing the paseo. In the interim, and as currently proposed, the paseo remains private while it is landlocked from the public right-of-way.

7.5 SELECTION OF ALTERNATIVES

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a), italics added.) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar, supra*, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

7.5.1 Alternatives Considered and Rejected

7.5.1.1 *Location Alternative*

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".¹³⁶ The proposed project is a high-density residential and commercial mixed-use project located within the West San Carlos Urban Village, in the Mixed-Use Residential Character Area with an Urban Village land use designation. There are properties in proximity to the site with the same Character Area that could be redeveloped with high-density residential and commercial mixed-use project (see Figure 2.2-5). These sites appear to also have structures over 50 years old. While the proposed project could be developed on the sites nearby and possibly avoid the significant unavoidable impact to historic resources, the project applicant does not own or have control of the alternative locations in the project area, and is not economically viable to purchase additional lands for the proposed development; therefore, this alternative was considered but rejected as infeasible.

7.5.2 Project Alternatives

7.5.2.1 *No Project – No Development Alternative*

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services."

The No Project – No Development Alternative assumes that the project site would remain as it is today, which includes the existing auto commercial, commercial (restaurant), and residential development on-site.

The No Project – No Development Alternative would avoid all of the project's environmental impacts. The No Project – No Development Alternative would not meet any of the project objectives. In addition, the existing development is lower than the density encouraged under the General Plan

¹³⁶ CEQA Guidelines Section 15126.6(f)(2)(A)

designation and zoning, since the site currently contains lower commercial FAR and du/ac than the minimum requirement. Because the No Project – No Development Alternative would not result in any development on the site, this Alternative would avoid all of the environmental impacts of the project. However, this Alternative would not meet any of the project objectives.

7.5.2.2 *No Project – Existing Land Use Designation Alternative*

The No Project – Existing Land Use Designation Alternative is what would be developed on-site under the existing General Plan land use designation and zoning. The proposed project is consistent with the existing General Plan land use designation. While the project proposes a rezoning from CP and R-M to PD, the rezoning is required because the current zonings are inconsistent with the design standards specified in the West San Carlos Urban Village Plan (refer to Section 3.11 Land Use and Planning). Therefore, the No Project – Existing Land Use Designation Alternative would also require a PD rezoning to design the project consistent with the West San Carlos Urban Village Design Guidelines. For these reasons, this alternative is essentially the proposed project, which would result in a significant unavoidable impact to historic resources. See Section 7.5.2.3 below for a discussion on the Design Alternative.

7.5.2.3 *Design Alternative*

Demolition of the residential units on-site would result in a significant unavoidable impact to historic resources. The purpose of the Design Alternative is to avoid the project's significant unavoidable impact to historic resources. The Design Alternative would require the project to be redesigned in a manner that would preserve the historic resources to the extent feasible while still allowing a physically feasible development on the project site.

Under the Design Alternative, Building 1 would be redesigned with a reduced building footprint to allow five of the bungalow units to be relocated and preserved on the southern portion of the site. Building 2 would remain the same as the proposed project. See Figure 7.5-1 for a conceptual site plan of the Design Alternative. The five bungalow units would be situated in a horseshow layout and facing each other to form a central court in the middle, recreating a similar court-like court as the existing units. Building 1 of the Design Alternative would have 24 fewer residential units, 11,164 square feet less commercial space, and 18,923 square feet less common space. Building 1 would include 79 residential units, 10,000 square feet of commercial space, and 6,000 square feet of common space, which combined with Building 2, would result in a density of 111 du/ac and 0.29 commercial FAR.¹³⁷ Under the Design Alternative, Building 1 would be set back at least 95 feet from the southern property line. Building stories and height would stay the same. Access to the site and bungalow units under the Design Alternative would be provided on the proposed driveway on West San Carlos Street. The Design Alternative would preserve five out of seven of the bungalow units, and would lessen the significant impact to the historic resources to a less than significant level by restoring the buildings consistent with the City's requirements for historic buildings.¹³⁸ All other impacts during construction and operation would be similar to that of the proposed project.

¹³⁷ Density: 149 residential units / 1.34 acres (project site) = 111 du/ac

FAR: 17,118 commercial square feet / 58,603 square feet (project site) = 0.29

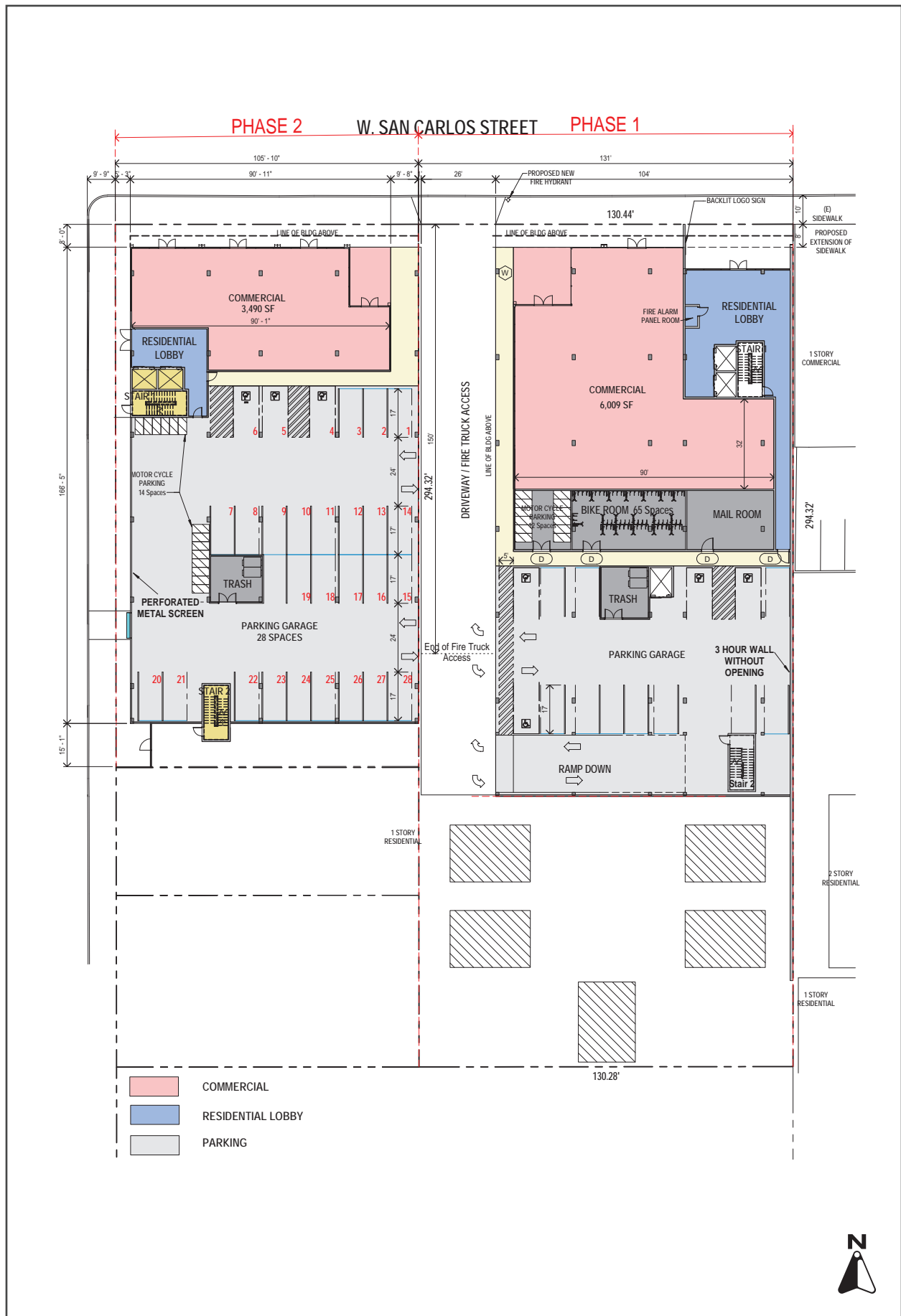
¹³⁸ Graux, Elizabeth. Architect, TreanorHL. Personal Communication. November 22, 2019.

The Design Alternative would not meet Objective 1 because the commercial FAR would not meet the minimum requirement of 0.3. The Design Alternative would not meet Objectives 5 and 7 because it would relocate the bungalow units to the southern portion of the site where the paseo is proposed for the project.

This Design Alternative would meet Objective 2 because it would have a density of 111 du/ac. The site currently contains approximately 7,600 square feet of commercial use. The Design Alternative would meet Objective 3 because it would include more commercial space for tax revenues compared to existing conditions. The Design Alternative would also meet Objective 4 because it would be required to replace the existing sidewalk on the project frontages consistent with the City requirements, and include commercial/retail use on the West San Carlos Street project frontage. The Design Alternative would meet Objective 6 because it would also be subject to the West San Carlos Urban Village Design Guidelines.

7.5.3 Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative to the proposed project is the No Project/No Development Alternative because all of the project's significant environmental impacts would be avoided. However, Section 15126.6(e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." In addition to the No Project/No Development Alternative, the Design Alternative would avoid or result in lesser impacts than the proposed project.



DESIGN ALTERNATIVE CONCEPTUAL SITE PLAN

FIGURE 7.5-1

SECTION 8.0 REFERENCES

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

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SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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Oakland, CA

Phase I Environmental Site Assessment and Phase II Subsurface Investigation

Hexagon Transportation Consultants

Gilroy, CA

Transportation

Illingworth & Rodkin

Cotati, CA

Air Quality, Greenhouse Gas Emissions, and Noise