

# Initial Study/Mitigated Negative Declaration

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## **6211 Santa Teresa Boulevard Fuel Station Project**

**File Number: CP18-011**

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April 2020

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSE, CALIFORNIA**

**Project Name:** 6211 Santa Teresa Boulevard Fuel Station Project

**File No.:** CP18-011

**Description:** The Fuel Station Project would demolish all existing structures, remove the existing underground fuel tanks, and construct a 3,056 square feet (sf) convenience store with 24-hour use, site improvements (paving, exterior lighting, landscaping, and the removal of up to 14 trees of which 11 are ordinance size), a fuel canopy with four fuel dispensers, and two new underground fuel tanks on an approximately 0.47-gross acre site.

**Location:** 6211 Santa Teresa Boulevard. **Assessor's Parcel No.:** 704-01-007. **Council District:** 2.

**Applicant Contact Information:** 7-Eleven, Inc., Attn: Crystal Justice, 4637 Chabot Drive, Suite 117, Pleasanton, CA 94588, Phone: (916) 742-0232

The City has performed an environmental review of the project. The environmental review examines the nature and extent of any adverse effects on the environment that could occur if the project is approved and implemented. Based on the review, the City has prepared a Draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment because the project will include mitigation measures that will reduce identified project impacts to a less than significant level. The project site is not present on any list pursuant to Section 65962.5 of the California Government Code.

The public is welcome to review and comment on the Draft MND. The public comment period for this Draft MND begins on **April 27, 2020 and ends on May 18, 2020.**

The Draft MND, Initial Study, and reference documents are available online at:

[www.sanjoseca.gov/negativedeclarations](http://www.sanjoseca.gov/negativedeclarations).

In response to the COVID-19 outbreak and closure of City Hall and the library, hard copies of the MND are not available for review at these typical locations. Should you wish to review a hard copy, please contact by email at [Cassandra.vanderZweep@sanjoseca.gov](mailto:Cassandra.vanderZweep@sanjoseca.gov).

For additional information, please contact Cassandra van der Zweep at (408) 535-7659 or my email at [Cassandra.vanderZweep@sanjoseca.gov](mailto:Cassandra.vanderZweep@sanjoseca.gov).

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

04-16-2020

Date

Cnd Zf

Deputy

Circulation period: **April 27, 2020 and ends on May 18, 2020.**

## **MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**PROJECT NAME:** 6211 Santa Teresa Boulevard Fuel Station Project

**PROJECT FILE NUMBER:** CP18-011

**PROJECT DESCRIPTION:** The Fuel Station Project would demolish all existing structures, remove the existing underground fuel tanks, and construct a 3,056 square feet (sf) convenience store with 24-hour use, site improvements (paving, exterior lighting, landscaping, and the removal of 14 trees of which 11 are ordinance size), a fuel canopy with four fuel dispensers, and two new underground fuel tanks on an approximately 0.47-gross acre site.

**PROJECT LOCATION:** The approximately 0.47-gross acre project site is located on the southeast corner of Santa Teresa Boulevard and Cottle Road, at 6211 Santa Teresa Boulevard, in San José, Santa Clara County, California.

**ASSESSORS PARCEL NO.:** 704-01-007

**COUNCIL DISTRICT:** 2

**APPLICANT CONTACT INFORMATION:** 7-Eleven, Inc., Attn: Crystal Justice, 4637 Chabot Drive, Suite 117, Pleasanton, CA 94588, Phone: (916) 742-0232

## **FINDING**

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

## **MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- A. AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. **AIR QUALITY.** – The project would not have a significant impact on this resource, therefore no mitigation is required.

D. **BIOLOGICAL RESOURCES.**

**Impact BIO-1:** Implementation of the Project (specifically demolition and construction activities, including the removal of trees from the project site), could impact nesting migratory birds.

**MM BIO-1:** Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 – August 31, inclusive). If construction activities cannot be scheduled to avoid breeding season, the project applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to avoid direct and indirect impacts to nesting birds. To avoid the destruction of active nests and protect the reproductive success of birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to vegetation clearance and structure demolition.

Following commencement of construction activities, no additional nesting bird surveys would be required. If active nests are discovered, a 300-foot radius avoidance buffer for raptors, and 50-foot radius avoidance buffers for other birds, shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed breeding/nesting is complete and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1, inclusive.

F. **GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

G. **GREENHOUSE GAS EMISSIONS**– The project would not have a significant impact on this resource, therefore no mitigation is required.

H. **HAZARDS AND HAZARDOUS MATERIALS.**

**Impact HAZ-1:** Project implementation may encounter residual concentrations of contaminants in soil and groundwater that exceed environmental screening levels during construction activities that could expose construction workers, neighboring uses, and the environment to hazardous materials.

**MM HAZ-1:** Prior to the issuance of any demolition or grading permits, the applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, to discuss the proposed redevelopment project and perform any other necessary investigations and studies to address the potential residual contamination as deemed necessary. The regulatory agency may require a Site Management Plan (SMP), or similar document, to manage the cleanup of potentially contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. If required, the SMP shall include, but is

not limited to, the following elements to mitigate potential risks associated with environmental conditions:

- A detailed discussion of the site background;
- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.
- A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection.

The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction. The SMP, or similar document, shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent, for review and approval. A copy of the documentation shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and Municipal Compliance Officer of the City of San José Environmental Services Department for approval prior to the issuance of any grading permits.

**MM HAZ-2:** Prior to any Underground Storage Tank (UST) removal activities, including excavation, the project applicant shall contact the San José Fire Department and the SCCDEH and coordinate any necessary field inspections with any required permits and paperwork from both agencies. The project applicant must coordinate with the oversight agency any pre and post removal sampling of the UST and surrounding soil/and or groundwater. The project applicant must also complete and submit an Underground Storage Tank System Closure Permit Application with the SCCDEH and an Underground Storage Tank System Closure Application (UN-003) with the City of San José Fire Department.

- I. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required
- J. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- M. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. TRANSPORTATION / TRAFFIC** – The project would not have a significant impact on this resource, therefore no mitigation is required.

- S. **WILDFIRE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- T. **MANDATORY FINDINGS OF SIGNIFICANCE** - Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

#### **PUBLIC REVIEW PERIOD**

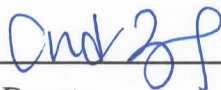
Before 5:00 p.m. on **Monday, May 18, 2020** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

4-16-2020

Date



Deputy

Cassandra van der Zweep  
Environmental Project Manager

Circulation period: April 27, 2020 through May 8, 2020

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## ACRONYMS AND ABBREVIATIONS

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### Special Characters/Numbers/Units of Measure

2017 CAP	<i>Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate</i>
µg/m <sup>3</sup>	micrograms per cubic meter

### A

AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos-containing material
amsl	above mean sea level
APN	Assessor's Parcel Number
Applicant	7-Eleven, Inc.

### B

BAAQMD	Bay Area Air Quality Management District
Bay Area	San Francisco Bay Area
BMP	best management practice

### C

CAA	Clean Air Act
CALFire	California Department of Forestry and Fire Protection
CAP	Clean Air Plan
CARB	California Air Resources Board
CBC	California Building Code
CBSC	California Building Standards Code
CCAP	Climate Change Action Plan
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CIP	Capital Improvement Program
City	City of San José
CMA	Congestion Management Agency
CMP	Congestion Management Plan
CNPS	California Native Plant Society
CO	carbon monoxide

CO <sub>2</sub> e	carbon dioxide equivalent
CP	Commercial Pedestrian
CRHR	California Register of Historic Resources
CWA	Clean Water Act

## **D**

dB	decibel
dba	A-weighted decibel
DNL	day-night level
DOC	California Department of Conservation
DPM	diesel particulate matter

## **E**

EIR	Environmental Impact Report
ESA	Endangered Species Act (federal)

## **F**

Farmland	Farmland of State-Wide Importance
FEMA	Federal Emergency Management Agency
Fuel Station Project	6211 Santa Teresa Boulevard, 7-Eleven Convenience Store and Fuel Station Project

## **G**

General Plan	Envision San José 2040 General Plan
GHG	greenhouse gas

## **H**

HARP	Hot Spots Analysis & Reporting Program
HCP	Habitat Conservation Plan
HSP	Health and Safety Plan

## **I**

in/sec	inches per second
IS	Initial Study
IS/MND	Initial Study/Mitigated Negative Declaration

## **J**

## **K**

## **L**

lb/day	pounds per day
Leq	sound pressure level/equivalent continuous noise level

LID	low-impact development
LOS	level of service
LRT	light rail transit
LTA	Local Transportation Analysis
LUST	leaking underground storage tank
<b>M</b>	
MBTA	Migratory Bird Treaty Act
MLD	most likely descendant
MM	mitigation measure
MRP	Municipal Regional Permit
MRZ	Mineral Resource Zone
MT	metric ton
MT/yr	metric tons per year
MTC	Metropolitan Transportation Commission
<b>N</b>	
NA	not applicable
NAHC	Native American Heritage Commission
NCC	Neighborhood/Community Commercial
NEHRP	National Earthquake Hazards Reduction
NMFS	National Marine Fisheries Service
NO <sub>x</sub>	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
<b>O</b>	
O <sub>3</sub>	ozone
<b>P</b>	
Pb	lead
PBCE	Planning, Building, and Code Enforcement
Phase I	Phase I Environmental Site Assessment
Phase II	Phase II Environmental Site Assessment
PM	particulate matter
PM <sub>10</sub>	particulate matter smaller than 10 microns in size
PM <sub>2.5</sub>	particulate matter smaller than 2.5 microns in size
PPV	peak particle velocity

PRC	Public Resources Code
<b>Q</b>	
<b>R</b>	
REC	Recognized Environmental Condition
ROG	reactive organic gas
RPS	Renewable Portfolio Standards
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
<b>S</b>	
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SCS	Sustainable Communities Strategy
sf	square foot
SJFD	San José Fire Department
SJPD	San José Police Department
SMARA	Surface Mining and Reclamation Act (California)
SMP	Site Management Plan
SO <sub>2</sub>	sulfur dioxide
SR	State Route
SVP	Society of Vertebrate Paleontology
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
<b>T</b>	
TA	Transportation Analysis
TAC	toxic air contaminant
TCR	Tribal Cultural Resource
<b>U</b>	
USACE	U.S. Army Corps of Engineers
USC	U.S. Code
USDA	U.S. Department of Agriculture
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish & Wildlife Service
UST	underground storage tank

**V**

VCP            vitrified clay pipe

VMT           vehicle miles traveled

VTA           Santa Clara Valley Transit Authority

**W**

**X**

**Y**

**Z**

# 1.0 INTRODUCTION

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## 1.1 PURPOSE OF THE INITIAL STUDY

The City of San José (City), as the Lead Agency, has prepared this Initial Study/Mitigated Negative Declaration (IS/MND) for the 6211 Santa Teresa Boulevard, 7-Eleven Convenience Store and Fuel Station Project (Fuel Station Project) in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations [CCR] § 15000 et seq.) and the regulations and policies of the City of San José, California.

The Fuel Station Project would demolish all existing structures, remove the existing underground fuel tanks, and construct a 3,056 square feet (sf) convenience store with 24-hour use, site improvements (paving, exterior lighting, landscaping, and the removal of 14 trees of which 11 are ordinance size), a fuel canopy with four fuel dispensers, and two new underground fuel tanks on an approximately 0.47-gross acre site.

### 1.1.1 PUBLIC REVIEW PERIOD

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

Cassandra van der Zweep  
City of San José  
Department of Planning, Building, and Code Enforcement (PBCE)  
200 East Santa Clara Street, Third Floor  
San José, California 95113  
(408) 535-7659  
[Cassandra.vanderZweep@sanjoseca.gov](mailto:Cassandra.vanderZweep@sanjoseca.gov)

### 1.1.2 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

Following the conclusion of the public review period, the City will consider the adoption of the IS/MND for the Fuel Station Project at a regularly scheduled meeting. The City shall consider the IS/MND together with any comments received during the public review process. Upon adoption of the IS/MND, the City may proceed with approval actions.

## 2.0 PROJECT INFORMATION

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### 2.1 PROJECT TITLE

CP18-011, 6211 Santa Teresa Boulevard Fuel Station Project

### 2.2 LEAD AGENCY CONTACT

Cassandra van der Zweep  
City of San José  
Department of Planning, Building, and Code Enforcement  
200 East Santa Clara Street, Third Floor  
San José, California 95113  
(408) 535-7659  
[Cassandra.vanderZweep@sanjoseca.gov](mailto:Cassandra.vanderZweep@sanjoseca.gov)

### 2.3 PROJECT APPLICANT

7-Eleven, Inc. (Applicant)  
Attn: Crystal Justice  
4637 Chabot Drive, Suite 117  
Pleasanton, CA 94588  
Phone: (916) 742-0232

### 2.4 PROJECT LOCATION

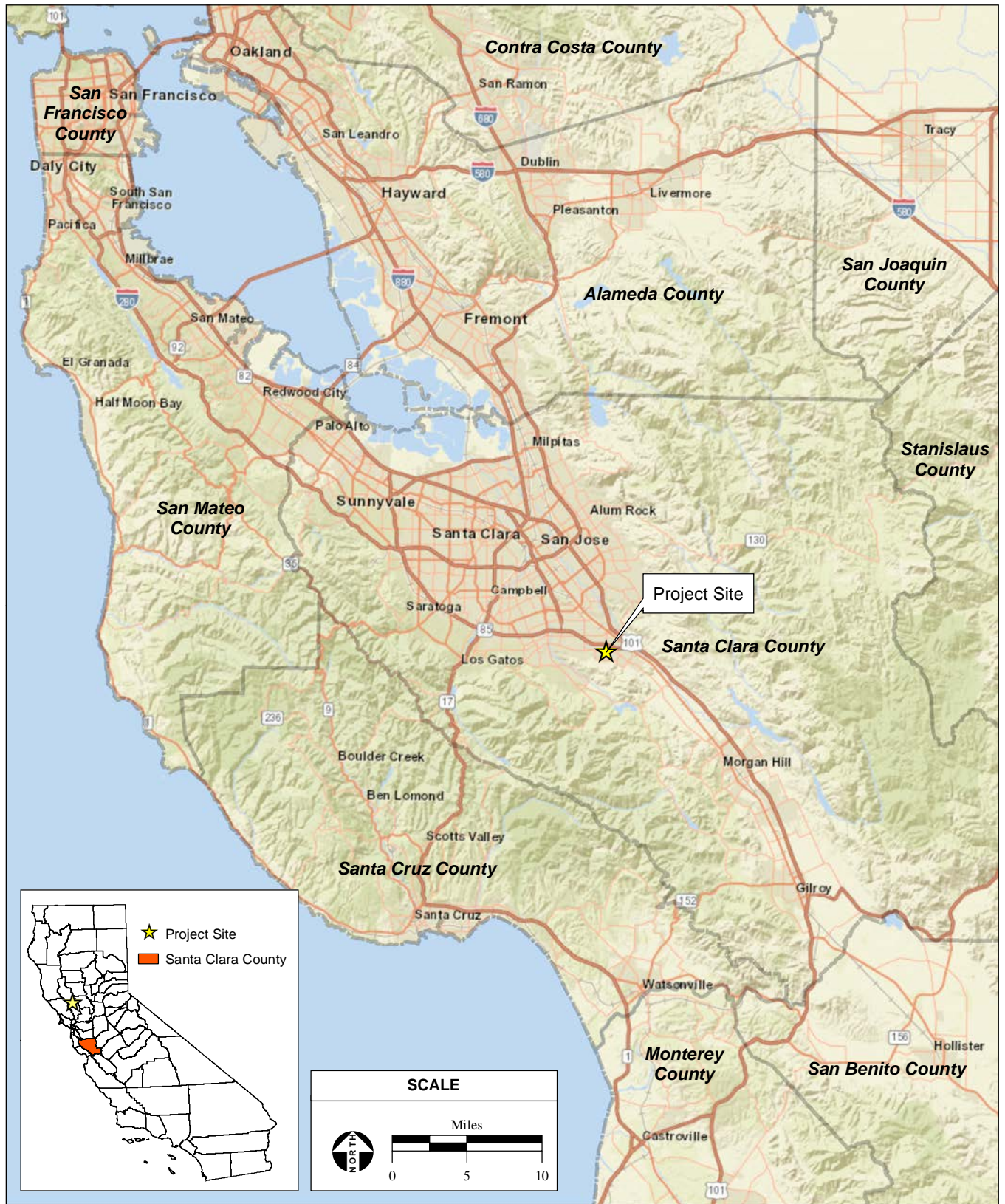
The approximately 0.47-gross acre project site is located on the southeast corner of Santa Teresa Boulevard and Cottle Road, at 6211 Santa Teresa Boulevard, in San José, Santa Clara County, California. **Figures 1-3** show the regional location, site and vicinity, and an aerial photograph of the project site.

### 2.5 ASSESSOR'S PARCEL NUMBER(S)

Assessor's Parcel Number (APN): 704-01-007

### 2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site has an Envision San José 2040 General Plan (General Plan) land use designation of Neighborhood/Community Commercial (NCC) and is located in the Commercial Pedestrian (CP) Zoning District (City of San José, 2019, ArcGIS, 2019).

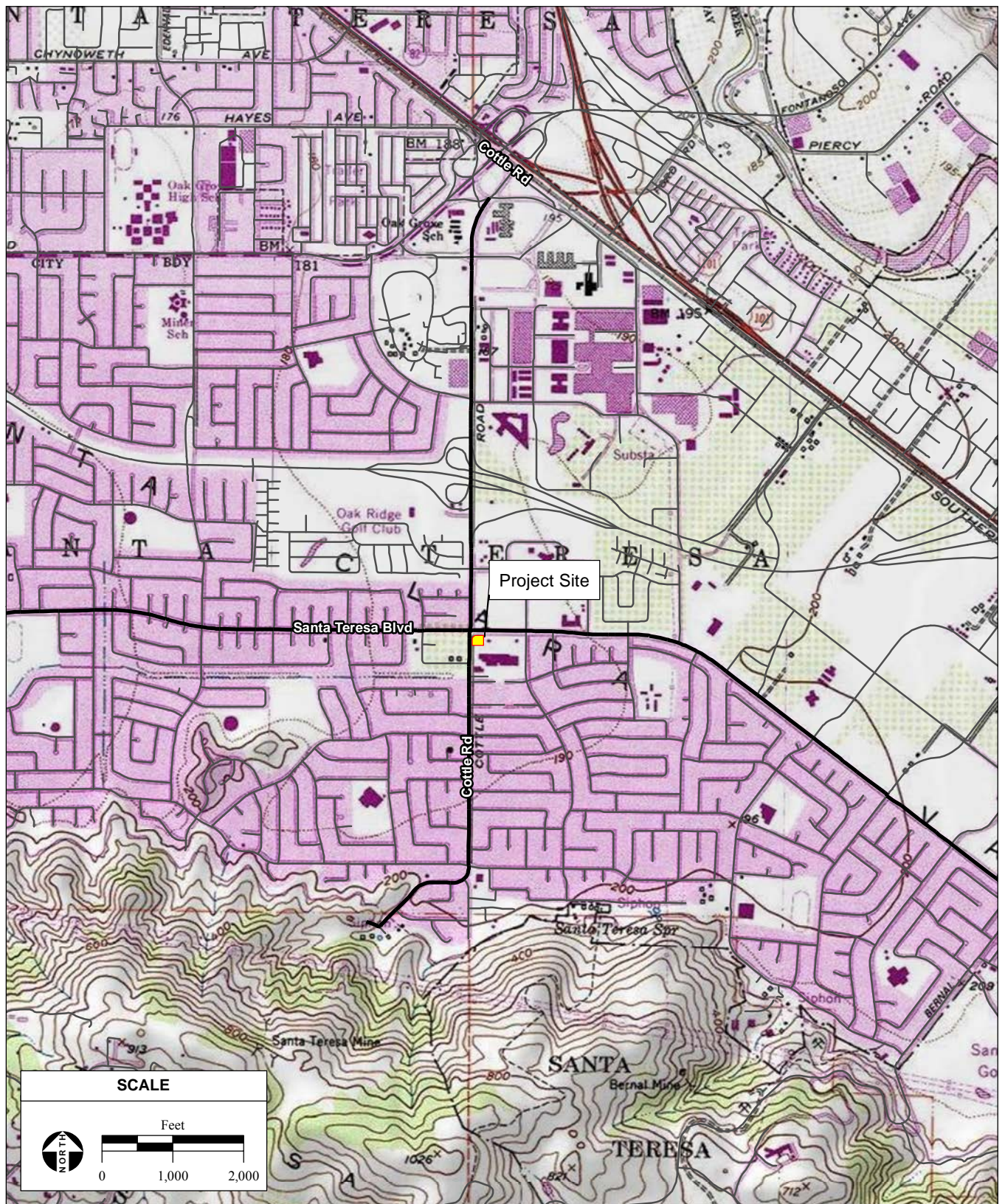


SOURCE: Caltrans, 2019; DigitalGlobe aerial photograph, 8/19/2017; AES, 7/10/2019

6211 Santa Teresa Gas Station Initial Study / 219516 ■

**Figure 1**  
Regional Location





SOURCE: "Santa Teresa Hills, CA" USGS 7.5 Minute Topographic Quadrangle, T8S, R1E, Unsectioned Area of Santa Teresa, Mt. Diablo Baseline & Meridian; AES, 7/10/2019

6211 Santa Teresa Gas Station Initial Study / 219516 ■

**Figure 2**  
Site and Vicinity





SOURCE: Caltrans, 2019; DigitalGlobe aerial photograph, 8/19/2017; AES, 7/10/2019

6211 Santa Teresa Gas Station Initial Study / 219516 ■

**Figure 3**  
Aerial Photograph

## **2.7 HABITAT PLAN DESIGNATION**

Land Cover Designation: Urban – Suburban

Fee Zone: Urban Areas (No Land Cover Fee)

Wildlife Survey Area: N/A

Source: Santa Clara Habitat Agency, 2019

## **2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS**

The Fuel Station Project would require the following.

- Demolition and Building Permits from the City
- Sign Permits from the City
- Conditional Use Permit from the City
- Public Works Clearances (such as Grading Permits) from the City

## 3.0 PROJECT DESCRIPTION

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### 3.1 PROJECT OVERVIEW

This IS/MND provides project-level CEQA review for the demolition of all existing structures, removal of the existing underground fuel tanks, and construction of an approximately 3,000 sf convenience store, a fuel canopy with four fuel dispensers two new underground fuel tanks on an approximately 0.47-gross acre site (APN 704-01-007).

#### 3.1.1 EXISTING SETTING

The project site is located in a commercial area within a larger residential area and is bordered by a fuel station and medical center to the north and commercial buildings to the south, west, and east (**Figure 2** and **Figure 3**). California State Route (SR) 85 travels east to west, bypassing downtown San José, approximately 0.4 miles north of the project site. There are no sensitive receptors located immediately adjacent to the project site boundaries. However, a daycare is located approximately 250 feet northwest of the project site, across Santa Teresa Boulevard (a six-lane major street); and residential uses are located approximately 150 feet southwest of the project site across Cottle Road. A restaurant is located directly adjacent to and approximately 70 feet east of the project site and several commercial businesses are located approximately 200 feet south of the project site. The project site is entirely paved and disturbed. The project site is currently developed with a 76® fuel station, a 2,239-sf service station with four service bays for automotive care services, and a small convenience store. The project site also contains landscaped areas including non-native grasses, shrubs, and trees. A site visit was conducted on June 20, 2019 and representative site photographs are included as **Figure 4**. The project site is located in the CP (Commercial Pedestrian) zoning district, has an General Plan land use designation of NCC (Neighborhood Community Commercial), and is located within the Santa Teresa Boulevard/Cottle Urban Village growth area.

### 3.2 PROJECT DESCRIPTION

#### 3.2.1 SITE DESIGN

The Fuel Station Project includes demolition of all existing structures, utilities, underground fuel tanks, signs, lights, fueling systems, air and water pumps, and various landscape planters. An approximately 3,056 sf 24-hour convenience store with two rooftop heating, ventilation, and air conditioning units, a fuel canopy with four fuel dispensers, and two new underground fuel tanks on an approximately 0.47-gross acre site would be constructed on the project site. The site plan for the Fuel Station Project is shown in **Figure 5** and the demolition plan is included as **Appendix A**. The scope of work includes redevelopment of the existing fueling station, expansion of the existing building for convenience use, and construction/installation of two new fueling tanks, a canopy, signage, and landscaping (a preliminary landscape plan can be seen in **Appendix H**). An air/water station and vacuum island would be located south of the fuel canopy, on the north side of the 7-Eleven convenience store. Car and motorcycle parking within the project site would be located directly north of the convenience store. The total number of car parking spaces would be 15, consisting of one Americans with Disabilities Act (ADA) space, six standard spaces, and eight fueling spaces. In addition, there would be one motorcycle parking space, one long-term bicycle parking space, and one short-term bicycle parking space. Existing underground fuel tanks would be removed (**Appendix A**) and two new underground tanks would be installed in the same general location (**Figure 5**).





**PHOTO 1:** Project site from Cottle Road, view to the north.



**PHOTO 2:** Project site from Cottle Road access, view to the northeast.



**PHOTO 3:** Northwest corner of project site, view to the east.



**PHOTO 4:** Project site, view to the south.



**PHOTO 5:** Project site from Santa Teresa Blvd, view to the east.



**PHOTO 6:** Project site from Santa Teresa Blvd, view to the west.



The existing retaining wall, the southern and eastern walls of the existing building, a landscape planter, the existing concrete foundation, a fire hydrant, and the vertical curb adjacent to the sidewalk would not be modified by the Fuel Station Project. Portions of the perimeter landscaping would be converted to impervious surfaces such as building or paving. The 6 adjacent off-site trees would be protected while the 14 existing on-site trees would be removed; 11 of the 14 trees are ordinance-size trees. These trees would be removed because they are either in poor condition, the City Public Works Department requests their removal, or the current planters they are located in are insufficient for their growth (refer to **Appendix H**, Arborist Report and its supplement for additional information on tree removal). However, 16 new trees that would meet City standards would be planted onsite as part of the proposed landscaping. The anticipated construction period is approximately six months, from June 2020 until December 2020.

Only the fuel station portion of the project site is currently operating 24 hours per day. The Fuel Station Project proposes 24-hour operation for both the fuel station and the convenience store. The anticipated customer visitation would be between 800 to 1,000 persons per day, which would vary by season and day. On average, one mid-sized truck would deliver fresh food daily and two semi-truck deliveries would occur per week. Furthermore, several other vendors delivering once a week or every other week would be anticipated depending on the needs of the convenience store.

The project site would be accessed by the two existing driveways: one east of the project site along Santa Teresa Boulevard accessed by an existing easement and one existing driveway onsite on the west side of the project site along Cottle Road. The Fuel Station Project would widen the sidewalk along Santa Teresa Boulevard to 10 feet and the sidewalk along Cottle Road to 15 feet. A new accessible walkway would be constructed from Cottle Road between the existing driveways to the convenience store building.

The Fuel Station Project would continue to utilize the existing municipal water and wastewater utility connections, including stormwater. Electricity and gas would continue to be provided by Pacific Gas & Electric and solid waste would continue to be collected by Republic Services via a contract with the City.

### **3.2.2 DEMOLITION AND CONSTRUCTION**

Demolition and construction for the Fuel Station Project would occur for approximately six months. As discussed in **Appendix A**, demolition would include the removal of most of the existing surface structures including the landscaping planters on the north and west sides of the project site, the monument sign, lighting, the fuel system, and the air and water pumps. The landscaping planter at the northwestern corner of the project site, the southern and eastern walls and the foundation of the building would remain. The contractor would install a traffic-rated (H-20) solid grate on the existing storm drain catch basin (to act as a junction box for stormwater) at the west end of the project site. Construction activities would demolish and remove concrete and asphalt concrete pavement from the project site. Two 12,000-gallon gasoline underground storage tanks (UST) and one 10,000-gallon diesel UST would be excavated and replaced during demolition and construction. Excavation of the existing tanks and installation of the new ones would involve grading or excavating of native soils. During construction, energy efficient construction equipment would be utilized to the extent feasible.

### **3.2.3 PROJECT APPROVAL PROCESS**

The Fuel Station Project could require the following permits.

- Demolition and Building Permits from the City

- Conditional Use Permit from the City
- Sign Permits from the City
- General Construction Permit for Stormwater from the SWRCB
- Public Works Clearances (such as Grading Permits) from the City



## 4.0 EVALUATION OF ENVIRONMENTAL IMPACTS

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This section describes the existing environmental conditions on and near the project site, as well as environmental impacts associated with the Fuel Station Project. The discussion for each environmental subject includes the following subsections.

- **Environmental Checklist:** The environmental checklist, as recommended by CEQA, identifies environmental impacts that could occur if the Fuel Station Project is implemented. The right-hand column of the checklist lists the source(s) for the answer to each question. The sources are identified at the end of this section.
- **Impact Discussion:** This subsection discusses the impact from the Fuel Station Project as it relates to the environmental checklist questions. Mitigation measures are identified for all significant impacts. Mitigation measures are measures that would minimize, avoid, or eliminate a significant impact (CEQA Guidelines § 15370).

### IMPORTANT NOTE TO THE READER

The California Supreme Court, in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)], confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project (FindLaw, 2020). Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the Fuel Station Project on the environment, including whether the Fuel Station Project could exacerbate existing environmental hazards.

The City has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, that are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this IS/MND, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., an Environmental Impact Report [EIR] or Initial Study [IS]) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the Fuel Station Project on the environment, this section will discuss project effects related to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

## 4.1 AESTHETICS

### 4.1.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
1. AESTHETICS. Would the Fuel Station Project:					
a) Have a substantial adverse effect on a scenic vista?			X		1, 2
b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway?			X		1, 2
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from a publically accessible vantage point). If the Fuel Station Project is in an urbanized area, would it conflict with applicable zoning and other regulations governing scenic quality?			X		1, 2
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			X		1, 2

### 4.1.2 SETTING

The project site is located in a commercial and residential urban area within the City. The property is currently occupied by a 76® fuel station, which includes an automotive care shop, a convenience store, fuel pumps, a building, driveways, and parking areas. Vegetation is limited to ornamental landscaping and trees. Photographs of the project site are presented in **Figure 5**, and an aerial of the project site is provided in **Figure 3**. Santa Teresa is a six-lane street that runs parallel to the northern boundary of the project site while Cottle Road is four lanes and runs adjacent to the western boundary of the project site. Another fuel station is located north of the project site across Santa Teresa Boulevard and a fast food venue is located to the west across Cottle Road. A bank is located adjacent to the eastern boundary while parking for a multi-unit commercial development is located adjacent to the southern boundary of the project site. To the northwest, across the intersection of Santa Teresa Boulevard and Cottle Road, is a daycare. Northeast of the project site is a Kaiser Permanente® medical campus, which operates 24 hours per day. The project site is not located in or near any State scenic highways, nor is it located along any scenic corridors identified on the City's Scenic Corridors Diagram (City of San José, 2016).

### 4.1.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

Any development allowed by each respective proposed land use designation in the City would be subject to the visual and aesthetic policies listed in the General Plan, as well as the San José Outdoor Lighting Policy and the Commercial Design Guidelines.

The General Plan includes Community Design Goals, Policies, and Implementation Actions that guide the form of future development in the City and help tie individual projects to a vision for the surrounding area

and City as a whole. The following policies are specific to aesthetic resources and would apply to the Fuel Station Project.

- **Policy CD-1.1:** Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
- **Policy CD-1.7:** Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public right-of-ways.
- **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-1.13:** 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-1.16:** Strongly discourage gates and fences at the frontage of commercial properties to maintain an open and inviting commercial character and avoid the inhospitable appearance of security barriers.

#### **4.1.4 IMPACTS EVALUATION**

- A. Less-Than-Significant Impact:** The project site is located on a developed property within an urbanized location in the central portion of the City. It is surrounded by developed properties or streets in all directions with similar land uses and intensity of development. Building heights would be commensurate to surrounding land uses. No significant exterior site improvements are proposed that would impact scenic vistas.
- B. Less-Than-Significant Impact:** The project site is not located within any City or State designated scenic routes and is not visible from any designated State Scenic Highway. Neither rock outcroppings nor historic buildings are present onsite. The Fuel Station Project would involve the removal of existing ornamental trees, none of which are included on the adopted Heritage Tree List. To remove the proposed trees, the Fuel Station Project would be required to comply with the City's Tree Replacement Ratio policy as outlined in the Biological Resources Section 4.4. Therefore, the Fuel Station Project would not substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings.
- C. Less-Than-Significant Impact:** The Fuel Station Project would not alter the existing visual character of the project site and its immediate surroundings, since the project is replacing an older fuel station and convenience store with a new fuel station and convenience store. The Fuel Station Project is not predicted to significantly degrade the existing character of the area, which is highly urbanized and dominated by commercial uses immediately surrounding the property. High density residential units are located to the south and west of the property, while single-family residences

are located northwest beyond the daycare. Visual effects of the Fuel Station Project would be minimized by the following: 1) conformance with the City's Commercial Design Guidelines, and 2) planning review to ensure scale and mass are compatible with the surrounding neighborhood. The Fuel Station Project may improve the visual character of the project site through the replacement of aging infrastructure and new landscaping.

- D. Less-Than-Significant Impact:** The Fuel Station Project would modify the existing lighting duration to a 24-hour period. Nearby sources of similar constant nighttime light include the Kaiser Permanente® medical campus across Santa Teresa Boulevard and street lighting along Santa Teresa Boulevard. Therefore, the potential increase in nighttime lighting is considered nominal when compared to existing conditions. City regulations require that outdoor lighting be shielded and directed away from adjacent properties to minimize potential impacts. Based on the nominal changes in exterior lighting over existing conditions, and with implementation of the applicable building code standards and the City's Outdoor Lighting Policy, any potentially adverse lighting impacts would be reduced to less-than-significant levels.

### 4.1.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on aesthetics.

## 4.2 AGRICULTURAL AND FORESTRY RESOURCES

### 4.2.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Source(s)
2. AGRICULTURAL AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation (DOC) as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection (CALFire) regarding the State's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board (CARB). Would the Fuel Station Project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of State-wide 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?				X	4, 5
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X	5
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code [PRC] § 12220(g)), timberland (as defined by PRC § 4526), or timberland zoned Timberland Production (as defined by Government Code § 51104(g))?				X	4
d) Result in the loss of forest land or conversion of forest land to non-forest uses?				X	2
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?				X	1, 2, 3

### 4.2.2 SETTING

The project site has been used for commercial purposes since at least 1974. Historical topographic maps and aerial photos reveal that commercial properties were first on the project site and on the adjacent property to the east, north, and south in 1974. The adjacent property to the west remained as an orchard (**Appendix E**). The project area is identified as “Urban and Built-Up Land” on the Santa Clara County Important Farmlands Map (DOC, 2016). Furthermore, the project site is a developed commercial property, is not zoned for agricultural use, and does not contain lands under Williamson Act contract.

### 4.2.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

In California, agricultural land is given consideration under CEQA. According to PRC § 21060.1, “agricultural land” is identified as prime farmland, farmland of state-wide importance, or unique farmland, as defined by the U.S. Department of Agriculture (USDA) land inventory and monitoring criteria, as modified for California. CEQA also requires consideration of impacts on lands that are under Williamson

Act contract. As stated above, the project site does not contain any agricultural land or lands under Williamson Act contract.

Locally, the General Plan includes Land Use Goals, Policies, and Implementation Actions that guide the form of future development in the City and help tie individual projects to the vision for the surrounding area and City as a whole. The following policy is specific to agriculture and forest resources and applies to the Fuel Station Project.

- **Policy LU-12.3:** Protect and preserve the remaining farmlands within the City’s sphere of influence that are not planned for urbanization in the timeframe of the General Plan through the following means.
  - Limit residential uses in agricultural areas to those which are incidental to agriculture
  - Restrict and discourage subdivision of agricultural lands
  - Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights
  - Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses
  - Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan [General Plan]

CEQA requires the evaluation of forest and timber resources where they are present. The project site is located in an urban area has been used for commercial uses. The project site does not contain any forest land as defined in PRC § 12220(g), timberland as defined by PRC § 4526, or property zoned for timberland production as defined by Government Code § 51104(g).

#### **4.2.4 IMPACTS EVALUATION**

- A. No Impact:** There is no Prime Farmland, Unique Farmland, or Farmland of State-wide Importance, shown on the Santa Clara County Important Farmland Map. The Fuel Station Project would not convert Prime Farmland, Unique Farmland, or Farmland of State-wide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.
- B. No Impact:** No Williamson Act contract lands, agricultural use, or agricultural zoning exist on or adjacent to the project site. The Fuel Station Project would not conflict with existing zoning for agricultural use, or a Williamson-Act contract.
- C. No Impact:** The Fuel Station Project would not conflict with existing zoning for, or cause rezoning of, forest land (as defined in PRC § 12220(g)), timberland (as defined by PRC § 4526), or timberland zoned for timberland production (as defined by Government Code § 51104(g)).
- D. No Impact:** The project site does not contain forest land; therefore, the Fuel Station Project would not result in the loss of forest land or conversion of forest land to non-forest use.
- E. No Impact:** As per the discussion above, the Fuel Station Project would not involve changes in

the existing environment which, due to their location or nature, could result in conversion of farmland or agricultural land because none are present on this already developed property.

### **4.2.5 CONCLUSION**

The Fuel Station Project would have no impact on agricultural or forest resources.

### 4.3 AIR QUALITY

#### 4.3.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
3. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the Fuel Station Project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?			X		1, 2, 3, 5
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standards?			X		1, 2, 3, 6, 7, 8
c) Expose sensitive receptors to substantial pollutant concentrations?			X		1, 2, 3, 6, 7, 8
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?			X		1, 2, 9

#### 4.3.2 SETTING

The Fuel Station project is located within the San Francisco Bay Area Air Basin, which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The area is dominated by dense commercial and residential development with six-lane and four-lane roadways adjacent to the northern and western property boundaries, respectively. The main source of air pollution in the area is from vehicle traffic with the roadway network include SR 85 and U.S. Highway 101, both north of the project site.

#### 4.3.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

The federal Clean Air Act (CAA) and the California Clean Air Act mandate the control and reduction of specific air pollutants. Under these Acts, the U.S. Environmental Protection Agency (USEPA) and CARB have established ambient air quality standards for specific "criteria" pollutants, designed to protect public health and welfare. Primary criteria pollutants include carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NOx), particulate matter (PM), sulfur dioxide, and lead (Pb). Secondary criteria pollutants include ozone (O<sub>3</sub>), and fine PM.

The USEPA has classified the region as a nonattainment area for the 8-hour O<sub>3</sub> standard and the 24-hour PM smaller than 2.5 microns in size (PM<sub>2.5</sub>) standard. The USEPA has deemed the region as attainment/unclassified for all other air pollutants. At the State level, the San Francisco Bay Area (Bay Area) is considered nonattainment for O<sub>3</sub>, PM smaller than 10 microns in size (PM<sub>10</sub>), and PM<sub>2.5</sub> (CARB, 2018).

The BAAQMD is primarily responsible for assuring that the federal and State ambient air quality standards are attained and maintained in the Bay Area. CEQA Guidelines § 15064(b) provides a determination of whether a project may have a significant effect on the environment, calls for careful judgment on the part of the Lead Agency, and must be based to the extent possible on scientific and factual data. The City has



considered the thresholds updated by BAAQMD in May 2017. The BAAQMD screening levels are based on project size for air pollutant emissions.

The BAAQMD, along with other regional agencies (e.g., the Association of Bay Area Governments [ABAG] and the Metropolitan Transportation Commission [MTC]), develops plans to reduce air pollutant emissions. The most recent clean air plan (CAP) is the *Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate* (2017 CAP), which was adopted by BAAQMD in April 2017. This is an update to the 2010 CAP, and focuses on protecting public health and the climate. The 2017 CAP identified a broad range of control measures. These control measures include specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and are based on the following four key priorities.

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of “super-GHGs [greenhouse gases]” such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

Toxic air contaminants (TAC) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer). TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at regional, State, and federal levels. **Tables 1 and 2** provide BAAQMD criteria pollutant thresholds for construction and operation of the Fuel Station Project. The construction TAC emissions were determined by modeling point sources, a single emissions source such as a single stack because construction equipment would be confined to a single space (generally in the middle of the project site where heavy construction equipment would operate), rather than a line source, which is used for mobile sources on roadways.

**TABLE 1. THRESHOLDS OF SIGNIFICANCE FOR CONSTRUCTION-RELATED CRITERIA AIR POLLUTANTS AND PRECURSORS**

Pollutant/Precursor	Daily Average Emissions (pounds per day)
ROG	54
NOx	54
PM <sub>10</sub>	82*
PM <sub>2.5</sub>	54*
PM <sub>10</sub> /PM <sub>2.5</sub> Fugitive Dust	Best Management Practices
* Applies to construction exhaust emissions only. Notes: NOx = oxides of nitrogen PM <sub>2.5</sub> = Particulate Matter smaller than 2.5 microns in size PM <sub>10</sub> = Particulate Matter smaller than 10 microns in size ROG = reactive organic gas	

TABLE 2. THRESHOLDS OF SIGNIFICANCE FOR OPERATIONAL-RELATED CRITERIA AIR POLLUTANTS AND PRECURSORS		
Pollutant/Precursor	Maximum Annual Emission (tons per year)	Average Daily Emission (pounds per day)
ROG	10	54
NO <sub>x</sub>	10	54
PM <sub>10</sub>	15	82
PM <sub>2.5</sub>	10	54

Table 3 provides the BAAQMD threshold for localized CO emissions.

TABLE 3. THRESHOLD OF SIGNIFICANCE FOR LOCAL MONOXIDE EMISSION	
California Ambient Air Quality Standards Averaging Time	Concentration (parts per million)
1-Hour	20.0
8-Hour	9.0

The BAAQMD defines sensitive receptors as facilities where sensitive population groups are located, including residences, schools, childcare centers, convalescent homes, and medical facilities. Land uses such as schools and hospitals are considered more sensitive than the general public to poor air quality because of an increased susceptibility to respiratory distress within the populations associated with these uses.

The project site is located in a commercial area and the nearest sensitive receptors are residences located 150 feet to the south. A daycare center is located approximately 250 feet northwest of the project site.

Locally, the General Plan includes Land Use Goals, Policies, and Implementation Actions that guide the form of future development in the City and help tie individual projects to the vision for the surrounding area and City as a whole. The following policy is specific to air quality and applies to the Fuel Station Project.

- **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 feasible air emission 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 CAP 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 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-11.4:** Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
- **Policy MS-11.5:** Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
- **Policy MS-13.1:** Include dust, PM, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
- **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.

#### **4.3.4 ANALYSIS OVERVIEW**

Criteria emission estimates were prepared for construction and operations of the Fuel Station Project using CalEEMod, version 2016.3.2 with settings for “Convenience Store w/ Fuel Dispensing.” CalEEMod is a State-wide land use emissions computer model designed to provide an uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects. The project-specific information was input into the model along with default information for Santa Clara County.

Operational trip volumes reflect the traffic analysis that was completed for the Fuel Station Project (a total of 181 trips per day) and the assumption that 25 percent of the trips would include vehicle fueling at the project site. For construction activities, default CalEEMod schedules were generally accepted, but slight changes to default equipment inventories and operating schedules were made to reflect circumstances that are unique to the Fuel Station Project, such as additional tank excavation and minimal grading activities. No mitigation measures were assumed relative to the calculation of emissions or to obtain model results, although best management practices (BMP) would be applied to construction activities pursuant to local requirements.

CalEEMod was used to quantify DPM emissions in support of a health risk assessment for construction activities using AERSCREEN version 16216 to develop conservative pollution dispersion values and Hot Spots Analysis & Reporting Program (HARP) 2 version 2.0.0.8. Diesel PM<sub>2.5</sub> emissions were also combined with fugitive construction emissions to determine annual average ambient PM<sub>2.5</sub> concentrations at the nearest receptor location. An operations phase toxics inventory from fuel loading and vehicle fueling was also calculated using reference data from the California Air Toxics Emission Factors. The resulting annual emissions inventory was entered into the BAAQMD CEQA risk assessment tool to determine the Fuel Station Project's significance relative to public health.

The results of the CalEEMod and HARP2 analysis were compared with the threshold of significance for criteria air pollutants and GHG during and after construction, if applicable.

### 4.3.5 IMPACTS EVALUATION

- A. Less-Than-Significant Impact:** The Fuel Station Project consists of the demolition of a fuel station and convenience store and the construction of a 3,056-sf convenience store and fuel pumps in its place. The proposed replacement of the existing fuel station would not conflict with the implementation of any of the control measures in accordance with the 2017 CAP. Long-Term traffic generated from the Fuel Station Project's proposed changes would be below the significance levels established by the BAAQMD. The proposed land uses under the General Plan have been analyzed in the General Plan EIR and are consistent with local air quality plans. The proposed convenience store and fuel station is a permitted use under the General Plan land use designation and the City's Municipal Code, and would not increase regional population growth or cause significant changes in vehicle travel beyond that previously analyzed in the General Plan. Therefore, the Fuel Station Project would not conflict with or obstruct implementation of the applicable air quality plans.
- B. Less-Than-Significant Impact:** The City uses the thresholds of significance established by the BAAQMD to assess air quality impacts. Results of the analysis indicate that air quality impacts of the Fuel Station Project, for both construction activities and operations, are not expected to exceed BAAQMD significance thresholds for any criteria pollutant for which the project area is nonattainment under applicable federal or State ambient air quality standards. **Tables 4 and 5** show estimated project emissions for construction and operation.

TABLE 4. CONSTRUCTION ACTIVITIES							
Sources	ROG (lb/day)	NO <sub>x</sub> (lb/day)	PM <sub>10</sub> (lb/day)	PM <sub>2.5</sub> (lb/day)	SO <sub>2</sub> (lb/day)	CO (lb/day)	CO <sub>2e</sub> (MT/yr)
Emissions	28.1	5.7	3.4	1.9	0.006	3.4	14.7
Threshold of Significance	54	54	82 Exhaust	54 Exhaust	NA	NA	NA
Exceeds Threshold?	No	No	No	No	NA	NA	NA
Note: CO <sub>2e</sub> = carbon dioxide equivalent lb/day = pounds per day MT/yr = metric tons per year NA = not applicable SO <sub>2</sub> = sulfur dioxide Source: <b>Appendix B</b>							

*Construction Emissions*

As shown in **Table 4**, the proposed daily construction emissions would not exceed the BAAQMD thresholds of 54 lb/day for NO<sub>x</sub> and PM<sub>2.5</sub>, 82 lb/day for PM<sub>10</sub>, or 54 lb/day for ROG. Therefore, impacts from construction emissions would be less than significant.

TABLE 5. OPERATIONS							
	ROG	NO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>	SO <sub>2</sub>	CO	CO <sub>2</sub> e <sup>1</sup>
	lb/day						MT/yr
Fuel Station Project	0.7	0.6	0.2	0.1	<0.01	1.6	150
Threshold of Significance	54	54	82	54	NA	NA	10,000
Exceeds Threshold?	No	No	No	No	NA	No	No

Note: <sup>1</sup>The Fuel Station Project would add approximately 10 cars per hour to local roadways. No impact would occur.  
Source: **Appendix B**.

*Operational Emissions*

The BAAQMD screening level size regarding operational criteria pollutants for a convenience market with fuel pumps is 4,000 sf. **Table 5** shows that operation of the Fuel Station Project would not exceed the BAAQMD operation emissions thresholds for any of the criteria pollutants.

Detailed analysis input and output data are included in **Appendix B**. BAAQMD CEQA Guidelines dated May 2017 indicates a project would result in a less-than-significant impact to localized CO concentrations if the project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour. Consequently the impact of the Fuel Station Project's operational emissions on regional air quality would be less than significant.

- C. Less-Than-Significant Impact:** Operation of the Fuel Station Project is not expected to cause any localized emissions that could expose sensitive receptors to unhealthy air pollutant levels because the Fuel Station Project is below the BAAQMD screening size threshold and results of the analysis indicate no significant operational sources of pollutants are proposed onsite. Results of the analysis for expected impacts to public health are summarized in **Tables 6** and **7**. Detailed analysis input and output data are included as **Appendix B**.

TABLE 6. CONSTRUCTION ACTIVITIES RISK ASSESSMENT					
Risk Assessment	Nearest Residential Cancer Risk	Nearest Residential Non-Cancer Hazard Index	Nearest Worker Cancer Risk	Nearest Worker Non-Cancer Hazard Index	PM <sub>2.5</sub> – Annual Average Ambient Concentration at Nearest Sensitive Receptor
Risk	2.34E <sup>-06</sup>	2.54E <sup>-03</sup>	6.03E <sup>-08</sup>	4.67E <sup>-03</sup>	0.29 µg/m <sup>3</sup>
Threshold of Significance	1.0E <sup>-05</sup>	1	1.0E <sup>-05</sup>	1	0.3 µg/m <sup>3</sup>
Exceeds Threshold?	No	No	No	No	No

Note: µg/m<sup>3</sup> = micrograms per cubic meter  
Source: **Appendix B**.

TABLE 7. OPERATIONAL RISK ASSESSMENT

Risk Assessment	Total Cancer Risk	Non-Cancer Hazard Index
Risk	2.10E <sup>-07</sup>	1.00E <sup>-03</sup>
Threshold of Significance	1.0E <sup>-05</sup>	1
Exceeds Threshold?	No	No
Source: <b>Appendix B.</b>		

Construction activities associated with the Fuel Station Project would generate dust and equipment exhaust, which could temporarily impact adjacent land uses on a temporary basis. Sensitive receptors, such as residences and a daycare center, are located near the project site. The BAAQMD identifies BMPs for all projects in an effort to limit air quality impacts during construction. Short-Term air quality effects during construction would be mitigated with the implementation of the measures prescribed by the BAAQMD. As part of the development permit approval, the following standard condition of approval would be implemented to ensure that construction impacts are less than significant.

*Standard Conditions of Approval*

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

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least 2 feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads by using wet power vacuum street sweepers at least daily. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (e.g., 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, CCR § 2485).
- Provide clear signage for construction workers at all access points.

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

**D. Less-Than-Significant Impact:** The Fuel Station Project is not an odor-generating land use and there is already an existing fuel station on-site. Localized odors may be generated from diesel-powered vehicles and equipment onsite during construction; however, these odors would be temporary and would not extended beyond the project site boundaries. The Fuel Station Project is not an odor-generating land use and therefore would not create any objectionable odors.

### 4.3.6 CONCLUSION

With the incorporation of BAAQMD dust control measures, the Fuel Station Project would have a less-than-significant impact on air quality.

## 4.4 BIOLOGICAL RESOURCES

### 4.4.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
4. BIOLOGICAL RESOURCES. Would the Fuel Station Project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW), U.S. Fish & Wildlife Service (USFWS), or the National Oceanic and Atmospheric Administration Fisheries?		X			1, 2, 10
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the CDFW or the USFWS?				X	1, 2, 10
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?				X	1, 10
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?				X	1, 2, 10
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X		1, 2, 10
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?			X		1, 2, 10

### 4.4.2 SETTING

The Fuel Station Project is located on a developed site within an urbanized area of the City. The entire project site is ruderal/disturbed habitat. The project site is currently occupied by a commercial building, driveways, and parking areas. Vegetation consists of ornamental landscaping and trees provided within curbed areas on each side of the driveways; the largest planter is approximately 84 feet long by 4 feet deep along the southern portion of the eastern property boundary. The four curbed landscaped areas contain ornamental plant species separated by asphalt driveways subject to vehicular and pedestrian level disturbance, and therefore do not constitute contiguous habitat. The site has 14 trees onsite, including 11 ordinance-size trees. An Arborists Report, Tree Inventory Summary, and a supplement to the Arborist Report are included as **Appendix H**.



### **4.4.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS**

#### **4.4.3.1 Federal**

##### ***Federal Endangered Species Act***

The USFWS and National Marine Fisheries Service (NMFS) implement the federal Endangered Species Act (ESA) of 1973 (16 U.S. Code [USC] § 1531 et seq.). Threatened and endangered species on the list (50 Code of Federal Regulations Subsection 17.11, 17.12) are protected from “take” unless a Section 10 Permit is granted to an individual or a Section 7 consultation and a Biological Opinion with incidental take provisions are rendered to a federal Lead Agency. Critical habitat is defined under the ESA as specific geographic areas within a listed species range that contain features considered essential for the conservation of the listed species.

##### ***Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act***

Under the Migratory Bird Treaty Act of 1918 (MBTA; 16 USC Subsections 703-712), migratory bird species and their nests and eggs are protected from injury or death. California Fish and Game Code Subsections 3503, 3503.5, and 3800 prohibit the possession, incidental take, or needless destruction of birds, their nests, and eggs. The Bald and Golden Eagle Protection Act was originally enacted in 1940 to protect bald eagles and was later amended to include golden eagles (16 USC Subsections 668-668).

##### ***Wetlands and Other Waters of the U.S.***

The term “Waters of the U.S.” is defined as:

- all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide;
- all interstate waters including interstate wetlands; or
- all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use or degradation of which could affect interstate or foreign commerce including any such waters.

“Wetlands” are defined as lands that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands that meet these criteria during only a portion of the growing season are classified as seasonal wetlands.

Any project that involves working in navigable waters of the United States, including the discharge of dredged or fill material, must first obtain authorization from the U.S. Army Corps of Engineers (USACE), under Section 404 of the Clean Water Act (CWA). The CDFW requires notification prior to commencement, and possibly a Lake or Streambed Alteration Agreement pursuant to California Fish and Game Code Subsections 1601-1616, 5650, if a proposed project would result in the alteration or degradation of a stream, river, or lake in California. The Regional Water Quality Control Board (RWQCB) may require State Water Quality Certification (a CWA Section 401 permit) before other permits are issued, which may involve implementation of a Stormwater Pollution Prevention Plan (SWPPP).

#### **4.4.3.2 State**

##### ***California Endangered Species Act***

The CDFW implements State regulations pertaining to fish and wildlife and their habitat. The California Endangered Species Act (CESA) of 1984 (California Fish and Game Code § 2050 et seq., and CCR Title 14, Subsections 670.2, 670.51) prohibits the take (interpreted to mean the direct killing of a species) of species listed under the CESA (14 CCR Subsections 670.2, 670.5). A CESA permit must be obtained if a proposed project would result in the “take” of listed species, either during construction or over the life of the project. Under the CESA, the CDFW is responsible for maintaining a list of threatened and endangered species designated under State law (California Fish and Game Code Section 2070). CDFW also maintains lists of species of special concern, which serve as “watch lists.” Pursuant to requirements of the CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any State-listed species may be present in the project area and determine whether the proposed project would have a potentially significant impact upon such species. Project-Related impacts to species on the CESA list would be considered significant and would require mitigation.

##### ***California Environmental Quality Act***

Although threatened and endangered species are protected by specific federal and State statutes, CEQA Guidelines §§ 15380(b) and (d) provides that a species not included on the federal or State list of protected species may be considered rare or endangered if the species can be shown to meet certain specified criteria. These criteria have been modeled after the definition of the ESA and the section of the California Fish and Game Code dealing with rare or endangered plants or animals. This section was included in the guidelines primarily to handle situations in which a public agency is reviewing a project that may have a significant effect on, for example, a candidate species that has not yet been listed by either the USFWS or CDFW. Thus, CEQA provides the ability to protect a species from potential impacts until the respective government agencies have an opportunity to designate the species as protected, if warranted.

##### ***California Fish and Game Code***

California Fish and Game Code §§ 3503 and 3503.5 prohibit the take or needless destruction of bird nests or eggs; and prohibit the take, possession, and destruction of birds-of-prey (birds of the orders Strigiformes and Falconiformes, which are owls, falcons, and hawks). California Fish and Game Code § 3511 lists birds that are “fully protected,” that may not be taken or possessed except under specific permit. Depending on the presence of special-status species or nesting raptors during periods of project construction, consultation with the CDFW may be necessary. California Fish and Game Code § 3800 prohibits the take of nongame birds. Nongame birds are defined as, “All birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds.”

Section 1602 of the California Fish and Game Code requires any entity to notify CDFW before beginning any activity that would: 1) obstruct, divert, or change the natural flow of any river, stream, or lake; 2) change or use any material from the bed, channel, or bank of any river, stream, or lake; or 3) deposit, dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake. If CDFW determines that the activity may substantially adversely affect fish and wildlife resources, a CEQA-compliant Lake or Streambed Alteration Agreement that includes reasonable conditions necessary to protect those resources would be prepared.

#### 4.4.3.3 Local

##### ***Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan***

The project site is located within the boundaries of the Santa Clara Valley Habitat Conservation Plan (HCP). The HCP was developed through a partnership between Santa Clara County; the cities of San José, Morgan Hill, and Gilroy; the Santa Clara Valley Water District; the Santa Clara Valley Transportation Authority; the USFWS; and the CDFW. The HCP 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 project site is located within the boundaries of the HCP and is designated Urban-Suburban, Area 4: Urban Development Equal to or Greater Than 2 Acres Covered.

In addition, the HCP indicates that nitrogen deposition has damaging effects on many of the serpentine plants in the HCP area, including the host plants that support the Bay checkerspot butterfly (*Euphydryas editha bayensis*). Because serpentine soils tend to be nutrient poor and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. All major remaining populations of the Bay checkerspot butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area, including the project site. The displacement of native serpentine plant species and subsequent decline of several federally listed species, including the Bay checkerspot butterfly and its larval host plants, has been documented on Coyote Ridge in southern Santa Clara County.

##### ***San José Municipal Code Section 13.32***

Ordinance-Sized, heritage, and street trees make up the urban forest and are protected under the City's Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, §§ 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 4.5 feet above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree due to its size, history, unusual species, or unique quality. It is illegal to prune or remove any Heritage Tree without consultation with the City Arborist.

##### ***General Plan***

Locally, the General Plan includes Land Use Goals, Policies, and Implementation Actions that guide the form of future development in the City and help tie individual projects to the vision for the surrounding area and City as a whole. The following policy is specific biological resources and applies to the Fuel Station Project.

- **ER-4.4:** Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
- **ER-5.1:** Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

- **ER-5.2:** Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
- **ER-6.5:** Prohibit use of invasive species, Citywide, in required landscaping as part of the discretionary review of proposed development.
- **MS-21.5:** As part of the development review process, preserve protected trees (as defined by the City 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.
- **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.

#### 4.4.4 IMPACTS EVALUATION

- A. Less-Than-Significant Impact With Mitigation Incorporated:** A search was performed on June 11, 2019 of the California Natural Diversity Database, the USFWS Information for Planning and Consultation database, and the California Native Plant Society (CNPS) database (**Appendix C**). These queries returned a list of regionally occurring special-status plant and animal species. An analysis of these species was performed to determine the potential for them to occur on the project site. The analysis and database search results are provided in **Appendix C**. No special-status species were identified as having the potential to occur onsite. Additionally, the project site does not fall within any USFWS designated critical habitat or NMFS Essential Fish Habitat (**Appendix C**).

Nesting migratory bird species, which are protected by the federal MBTA, have marginal potential foraging and nesting habitat present in the area of the project site. The Fuel Station Project would not impact foraging habitat; however, construction activities would result in the removal of 14 trees and would involve increased machinery, noise levels, and disturbances near the remaining off-site trees that have the potential to adversely affect nesting migratory bird and raptor species. However, the area around the project site is heavily urbanized and nesting birds would already be accustomed to a relatively high ambient noise environment. Furthermore, implementation of **Mitigation Measure (MM) BIO-1** would reduce potential impacts to nesting and migratory birds should they nest within 500 feet of the project site prior to the start of construction. This would be a less-than-significant impact with mitigation.

**MM BIO-1:** Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 – August 31, inclusive). If construction activities cannot be scheduled to avoid breeding season, the Applicant shall retain a qualified biologist to conduct a pre-construction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to avoid direct and indirect impacts to nesting birds. To avoid the destruction of active nests and protect the reproductive success of birds protected by the MBTA and the California Fish and Game Code, nesting bird surveys shall be performed not

more than 14 days prior to vegetation clearance and structure demolition.

Following commencement of construction activities, no additional nesting bird surveys would be required. If active nests are discovered, a 300-foot radius avoidance buffer for raptors, and 50-foot radius avoidance buffers for other birds, shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined the nest is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed breeding/nesting is complete and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1, inclusive.

- B. No Impact:** Based on review of the Habitat Agency's Geobrowser, National Wetland Inventory (USFWS, 2019) and observation of the project site, the project site is fully developed with buildings, hardscapes, and ornamental landscaping. The project site does not contain any riparian habitat or sensitive natural communities. Additionally, there are no USFWS designated critical habitat or NMFS designated Essential Fish Habitat present onsite. Therefore, the Fuel Station Project would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS.
- C. No Impact:** The project site is developed with buildings, hardscapes, and ornamental landscaping and does not contain any wetland or USACE jurisdictional resources; therefore, it would not adversely affect federally protected wetlands as defined by Section 404 of the CWA.
- D. No Impact:** The Fuel Station Project is a redevelopment of an existing commercial property within an urban area of heavily disturbed and developed land. The project site does not offer suitable wildlife nursery sites and does not currently function as a wildlife corridor. Major roadways—including multiple freeways—and other commercial/ residential developments border or are in the project site vicinity. Therefore, wildlife is largely restricted from accessing the project site and movement is already severely limited; the Fuel Station Project would not further impact wildlife movement.
- E. Less-Than-Significant Impact:** No sensitive habitats were identified on the project site; however, there are trees with the potential to provide nesting habitat. The City's General Plan identifies local conservation strategies; however, the project site is not identified as an area of conservation. The project site contains ornamental trees that would be removed during implementation of the Fuel Station Project. Pursuant to Chapter 13.28 of the Municipal Code, none of the proposed trees to be removed are heritage trees (refer to **Appendix H** for the Arborist Report). Specifically, the Fuel Station Project would include the removal of 14 trees currently on the project site, 11 of which are ordinance-size trees (refer to **Table 8** below). No on-site trees would remain; however the Fuel Station Project would protect 6 of the off-site trees during construction. Eight of the trees proposed for removal were recommended for removal by the arborist due to root conflicts that compromise the trees' health and structural stability. The remaining six trees would be removed per the request of the City Public Work Department or because their current planters are not sufficient for the tree (for additional information, see the Arborist Report and its supplement in **Appendix H**). The Fuel Station Project would be required to adhere to the City's tree replacement requirements, as outlined in the standard permit condition below, and would avoid impacts to the adjacent trees during

construction activities. The proposed on-site landscaping would include the planting of 16 new trees, for a net gain of 2 trees onsite compared to existing conditiona. Therefore, impacts would be less than significant.

TABLE 8. INVENTORY OF TREES TO BE REMOVED

Tree #	Common Name	Species	Multi-Stems (Inches)	Total Diameter at Breast Height (Inches)	Dripline Radius (Feet)	Conditional Assessment	
						Structure	Vigor
167	Coast Live Oak	<i>(Quercus agrifolia)</i>	3,3	6	8	Poor to fair	Fair
168	Coast Live Oak	<i>(Quercus agrifolia)</i>		5	10	Fair	Fair
169	Chinese Tallow	<i>(Triadica sebifera)</i>		15	19	Poor to fair	Fair
170	Privet	<i>(Ligustrum sp.)</i>		14	14	Fair	Fair
171	Privet	<i>(Ligustrum sp.)</i>		12	12	Fair	Fair
172	California Fan Palm	<i>(Washington filifera)</i>		16	8	Fair	Fair
173	California Fan Palm	<i>(Washington filifera)</i>		23	7	Fair	Fair
174	California Fan Palm	<i>(Washington filifera)</i>		23	9	Fair	Fair
175	Privet	<i>(Ligustrum sp.)</i>		17	18	Poor to fair	Fair
176	Privet	<i>(Ligustrum sp.)</i>		16	16	Poor to fair	Fair
177	Chinese Tallow	<i>(Triadica sebifera)</i>		15	18	Poor to Fair	Fair
178	Chinese Tallow	<i>(Triadica sebifera)</i>		13	14	Poor to fair	Poor to fair
179	Chinese Tallow	<i>(Triadica sebifera)</i>		15	19	Poor to fair	Fair
180	Chinese Tallow	<i>(Triadica sebifera)</i>		19	20	Poor to fair	Fair
Source: <b>Appendix H.</b>							

#### Standard Permit Condition

**Tree Replacement:** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in the **Table 9**, below, as amended.

TABLE 9. TREE REPLACEMENT RATIOS

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

Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree equals two 15-gallon trees

- Single-family and two-dwelling properties may be mitigated at a 1:1 ratio. 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 PBCE or the Director's designee, at the development permit stage:
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay off-site tree replacement fee(s) to the City, prior to the issuance of grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

- F. Less-Than-Significant Impact:** No sensitive habitats were identified on the project site, and there are no local policies or ordinances protecting biological resources that would be in conflict with the Proposed Project. The project site does not offer habitat capable of supporting special-status species targeted in the HCP, and the Fuel Station Project falls under an exemption from development fees as a private activity within the City planning limits (land type urban-suburban, less than 0.5 acres) as described in Chapters 2, 6, and 9 of the HCP. The Fuel Station Project is exempt from most HCP conditions based on meeting the requirements outlined in Table 6-1 of the HCP stating that "A covered activity on a parcel of less than 0.5 acre or less as long as no serpentine, stream, riparian woodland, pond, or wetland land cover type is within the parcel." However, the Fuel Station Project may still be subject to the Nitrogen Deposition Fee. Therefore, the following standard permit condition is recommended. There would be a less-than-significant impact with implementation of the standard permit condition.

*Standard Permit Condition*

**Santa Clara Valley Habitat Conservation Plan Coverage Screening Form:** The Fuel Station Project is subject to applicable Santa Clara Valley HCP conditions and fees prior to issuance of any grading or building permits. The Applicant shall submit a Santa Clara Valley HCP Coverage Screening Form to the Supervising Environmental Planner of the Department of PBCE for review and will complete subsequent forms, reports, and/or studies as required.

#### 4.4.5 CONCLUSION

The project would have a less-than-significant impact on biological resources with the standard permit condition incorporated.

## 4.5 CULTURAL RESOURCES

### 4.5.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
5. CULTURAL RESOURCES. Would the Fuel Station Project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines § 15064.5?				X	1, 2
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines § 15064.5?			X		1, 2
c) Disturb any human remains, including those interred outside of dedicated cemeteries?			X		1, 2

### 4.5.2 SETTING

The following discussion is based on the the cultural resources technical memorandum prepared for the project (**Appendix D**) on file with the Department of Planning Building and Code Enforcement.

#### 4.5.2.1 Prehistoric Context

The San Francisco Bay and Santa Clara Valley landscape has changed significantly during the 12,000 years since humans first occupied the region. Large drainages once flowed from Santa Clara Valley out through the Golden Gate during the late Pleistocene, but were inundated by rising ocean waters when continental glaciers began to melt with the onset of the Holocene. Human occupation of the region began thousands of years ago, beginning with peoples operating a mobile foraging strategy. The prehistoric era has been divided into the following periods.

- Early Holocene (Lower Archaic), 8000–3500 B.C.
- Early Period (Middle Archaic), 3500–500 B.C.
- Lower Middle Period (Initial Upper Archaic), 500 B.C. – A.D. 430
- Upper Middle Period (Late Upper Archaic), A.D. 430–1050
- Initial Late Period (Lower Emergent), A.D. 1050–1550
- Terminal Late Period, A.D. 1550-1800

The project site lies in the traditional territory of the Costanoan Indians. The term Costanoan represents a language family comprised of seven other languages subsumed under the Penutian language family. The subsistence patterns of the Costanoans consisted of seasonal resource gathering, annual burning of grasslands to promote the growth of seed-bearing annuals, fishing, and large and small mammal hunting. Tule balsas were used for watercraft and were propelled by double-bladed paddles. Bows were used for hunting waterfowl and small mammals along with decoys, nets, and disguises. Twined basketry was commonly



combined with coiled versions and was decorated with abalone pendants, quail plumes, and woodpecker scalps.

#### **4.5.2.2 Historic Context**

Three missions (San Francisco, Santa Clara, and San José) had the greatest impact on the Costanoans beginning in 1777. At the same time, the missions were being established by the Franciscans, four presidios (military fortifications that were established by the Spaniards), as well as pueblos (towns) as homes for Spanish colonists. In 1821, Mexico declared independence from Spain; in an effort to increase control over its territory (including California), the Mexican government began granting large tracts of land to its citizens; the project site lies within the Santa Teresa land grant, a 9,647-acre grant given to Joaquin Bernal.

The region came under American control after the defeat of the Mexican forces in 1847 and some of the land grants were subdivided for towns and railroads.

The City of San José was incorporated in 1850, the town of Santa Clara in 1852, and San Francisco in 1856. Urban development in these cities moved at a swift pace during the 1860s. Tracts adjacent to the City limits were subdivided, including the lands originally part of the ranchos. Public works services were introduced in the 1860s, with gas mains, water companies, and formal sewers organized and constructed. During the 1850s, regional stage lines were established and these were replaced by the arrival of the streetcar lines in the 1860s, establishing the first urban transit lines.

The Fuel Station Project contains an existing fuel station and convenience store constructed between 1986 and 1974 and currently occupied by a 76® fuel station. None of the structures onsite are listed on the City's Historic Resource Inventory.

#### **4.5.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS**

Cultural resources are defined as buildings, sites, structures, or objects, each of which may have historical, architectural, archaeological, cultural, and/or scientific importance. Numerous laws, regulations, and statutes at the federal level govern archaeological and historic resources deemed to have scientific, historic, or cultural value. CEQA requires that, for projects financed by or requiring the discretionary approval of public agencies in California, the effects that a project has on historical and unique archaeological resources be considered (PRC § 21083.2). Historical resources are defined as buildings, sites, structures, or objects, each of which may have historical, architectural, archaeological, cultural, or scientific importance (PRC § 50201). A resource may be eligible for inclusion in the California Register of Historic Resources (CRHR) if it:

- is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- is associated with the lives of persons important in our past;
- embodies the distinctive characteristics of a type, period, region, or method of construction, represents the work of an important creative individual, or possesses high artistic values; or
- has yielded, or may be likely to yield, information important in prehistory or history.

CEQA also provides for the protection of unique archaeological resources. PRC § 21083.2 defines unique archaeological resource as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets one or more of the following criteria: 1) that it contains information needed to answer important scientific research questions and that there is demonstrable public interest in that information; 2) that it has a special and particular quality, such as being the oldest of its type or the best available example of its type; or 3) that it is directly associated with a scientifically recognized important prehistoric or historic event or person.

#### **4.5.3.1 Assembly Bill 52**

California Assembly Bill (AB) 52 was enacted and expands upon CEQA by defining “tribal cultural resources.” The AB under PRC § 21084.2 establishes that “a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, Lead Agencies are required to “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the Lead Agency.

#### **4.5.3.2 Envision San José 2040 General Plan**

The General Plan provides environmental policies and goals related to cultural resources. The following applicable policies relate to cultural resources.

- **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.
- **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.
- **LU-14.4:** Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.

#### **Methodology**

Efforts to review the Fuel Station Project included a record search performed on June 26, 2019 at the Northwest Information Center (NWIC) of the California Historical Resources Information System (NWIC

File No.: 18-2330) and a field survey. The NWIC search included the project site and all areas within a ¼-mile radius of its boundaries. The purpose of this research was to determine if any prehistoric or historic-era cultural resources were known to exist within or in the vicinity of the project site. This record search included, but was not necessarily restricted, to a review of the following sources.

- National Register of Historic Places
- CRHR
- California Historical Landmarks
- California Inventory of Historic Resources

In addition, historic maps and aerial photographs were reviewed. These sources indicated that no development occurred on the project site until sometime between 1968 and 1974. The project site does not include any resources listed on the Santa Clara County Historic Properties Directory, or the local Inventory of Historic Resources (i.e., local resources identified as significant).

The NWIC record search noted that the project site had not been surveyed for cultural resources previously, but that nine surveys have been completed within the project's vicinity. Numerous archaeological sites have been identified within the region; the closest is a prehistoric archaeological site, CA-SCL-197. CA-SCL-197 was recorded in 1974 and again in 1984.

A cultural resources field inventory was conducted on June 20, 2019. At the time of the survey, the project site was in use as a fuel station, automotive care shop, and convenience store. Almost the entire project site was paved, with the exception of several low, raised beds with plantings and signage. No cultural resources were identified, and the fuel station, automotive care shop, and convenience store are all less than 50 years old.

#### **4.5.4 IMPACTS EVALUATION**

- A. No Impact:** The project site does not contain any structures more than 50 years old and is not listed on the City of San José Historic Resources Inventory. The record search indicates that the project site has not been previously surveyed, and no resources were identified during the survey. Therefore the Fuel Station Project would not have a significant impact to a known historical resource as defined in PRC § 15064.5.
- B. Less-Than-Significant Impact:** The project site has been highly disturbed by previous uses and lies within an area that is less environmentally sensitive due to the lack of a nearby reliable water source. If unanticipated discoveries are made during construction and/or future ground-disturbing activities, the Fuel Station Project would comply with standard permit conditions as outlined below and consistent with the General Plan Policies ER-10.2 and ER-10.3.
- C. Less-Than-Significant Impact:** The Fuel Station Project would include grading and ground-disturbing activities. While the potential is low, there is always the possibility that

ground-disturbing activities could uncover human remains. Compliance with the standard permit conditions below, which are consistent with the General Plan Policies ER-10.2 and ER-10.3, would reduce impacts to human remains to a less-than-significant level.

*Standard Permit Conditions*

Before ground disturbance is to occur, the Fuel Station Project would comply with the following permit conditions for the protection of subsurface prehistoric, historic, and other archaeological resources during construction.

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the project site, all activity within a 50-foot radius of the find shall halt, the Director of 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 the Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the NWIC (if applicable). Project personnel shall not collect or move any cultural materials.
- **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 §§ 7054 and 7050.5 and PRC §§ 5097.9 through 5097.99, as amended per AB 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent remains. The Applicant shall immediately notify the Director of PBCE or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner, who shall make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Santa Clara County Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance.
  - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
  - The MLD identified fails to make a recommendation.
  - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
- **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of PBCE shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to,

preparation and recovery of fossil materials so that the items can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

### **4.5.5 CONCLUSION**

The Fuel Station Project would have a less-than-significant impact on cultural resources

## 4.6 ENERGY

### 4.6.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
9. ENERGY. Would the Fuel Station Project:					
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X		11, 12
b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?			X		11, 12

### 4.6.2 SETTING

The Fuel Station Project consists of the construction and operation of a fuel station and convenience store. The project site is located in a commercial and residential urban area within City limits. The Fuel Station Project would be designed and constructed in compliance with the existing land use and zoning designations of the subject property, as found in the City's General Plan (City of San José, 2020).

### 4.6.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

Energy standards are set by the USEPA and apply to numerous consumer and commercial products (e.g., the ENERGY STAR program). The USEPA also sets fuel efficiency standards for automobiles and other modes of transportation.

#### 4.6.3.1 California Renewable Energy Standards

California established the California Renewable Portfolio Standards (RPS) Program in 2002 with the goal of increasing the percentage of renewable energy in the State's electricity mix. The goal was codified under Senate Bill (SB) 107 in 2010.

#### 4.6.3.2 California Building Codes

Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the CCR (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; the 2016 standards became effective January 1, 2017. The 2019 Title 24 updates were adopted on May 9, 2018 and went into effect on January 1, 2020. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments. The California Green Building Standards Code (CALGreen) establishes mandatory green building standards for all buildings in California.

The City has a Climate Change Action Plan (CCAP), Climate Smart San José, adopted in 2018, it proposes a reduction in GHG emissions while simultaneously creating jobs, preserving the environment, and improving quality of life. The CCAP includes 22 GHG reduction measures and supporting efforts organized under six GHG emissions categories: Municipal Operations; Energy; Transportation and Land Use; Solid Waste; Community Education and Outreach; and Adaptation (City of San José, 2018a). The RPS Program

established GHG reductions for California in 2002, with the goal of increasing the State's electricity mix from renewable energy to 20 percent of retail sales by 2017 (California Energy Commission, 2020). State and local agencies also regulate the use and consumption of energy through various methods and programs.

#### **4.6.3.3 Council Policy 6-32 Private Sector Green Building Policy**

The Private Sector Green Building Policy (Council Policy 6-32) requires applicable projects to achieve minimum green building performance levels using the Council-adopted reference standards. Commercial/Industrial projects less than 25,000 sf are classified as Tier 1 projects and must meet the provisions outlined in the U.S. Green Building Council's Leadership in Energy and Environmental Design's New Construction Checklist.

#### **4.6.3.4 Envision San José 2040 General Plan**

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating energy resource impacts from development projects. Policies applicable include the following.

- **MS-2.1:** Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources.
- **MS-2.4:** Promote energy efficient construction industry practices.
- **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).
- **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.

#### **4.6.3.5 Municipal Code**

The City's Municipal Code includes regulations associated with energy efficiency and energy use. City regulations include the following.

- 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
- Chapter 11.105: Requirements of Transportation Demand Management Programs for employers with more than 100 employees
- Construction and Demolition Plan Diversion Deposit Program, Chapter 9.10: to foster recycling of construction and demolition materials

#### 4.6.4 IMPACTS EVALUATION

- A. Less-Than-Significant Impact:** The construction and operation of the Fuel Station Project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources.

During construction there would be a temporary consumption of energy resources required for the movement of equipment and materials; however, the duration is limited due to the phasing of construction, and the area of construction is minimal. Furthermore, the new use is nearly identical to the previous use and therefore energy demands during construction would be reduced compared to the construction of a new type of land use because there is existing infrastructure to meet the needs of the new development. Compliance with local, State, and federal regulations (e.g., a limit on engine idling times, a requirement to recycle construction debris, etc.) would reduce short-term energy demand during construction to the extent feasible, and Fuel Station Project construction would not result in a wasteful or inefficient use of energy.

During operation of the fuel station and convenience store, there are no unusual project characteristics or processes that would require the use of equipment that would be more energy intensive than is used for comparable activities, or the use of equipment that would not conform to current emissions standards and related fuel efficiencies. Furthermore, through compliance with applicable requirements and/or regulations discussed in the **Section 4.3** and **Section 4.8** of this IS/MND, as well as the City's CCAP discussed above, individual project elements (e.g., building design and heating, ventilating, and air conditioning equipment, etc.) would be consistent with State and local energy reduction policies and strategies, and would not consume energy resources in a wasteful or inefficient manner.

- B. Less-Than-Significant Impact:** The Fuel Station Project would not conflict with or obstruct State or local plans for renewable energy or energy efficiency. Implementation of the Fuel Station Project would result in the installation of newer equipment that would be required to meet the increased energy efficiency standards established by the State and would be more efficient than the equipment utilized in the existing station.

#### 4.6.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on energy.



## 4.7 GEOLOGY AND SOILS

### 4.7.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
6. GEOLOGY AND SOILS. Would the Fuel Station Project:					
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)				X	1, 2, 14
ii) Strong seismic ground shaking?			X		1, 2
iii) Seismic-related ground failure, including liquefaction?			X		1, 2
iv) Landslides?				X	1, 2, 15
b) Result in substantial soil erosion or the loss of topsoil?			X		1, 2, 15
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Fuel Station Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X	1, 2, 15, 17
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X	1, 2, 15, 17
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X	1, 2, 15, 17
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X		1, 2, 16

### 4.7.2 SETTING

The project site is an essentially flat lot with an elevation of approximately 85 feet above mean sea level (amsl). The Fuel Station Project is fully developed with an existing fuel station, convenience store, landscaping, and pavement.

The project site is located within the seismically active Bay Area. Significant earthquakes that occur in the Bay Area are generally associated with the San Andreas Fault system. Other active faults in the area are the Hayward Fault, the Calaveras Fault, and the Monte Vista-Shannon Fault. The project site is not located within a fault rupture hazard zone (Santa Clara County, 2012). Soil located on the project site

consists of Urbanland-Newpark complex with 0 to 2 percent slopes. This complex is characterized by deep, moderately well drained soils that formed in alluvium from mixed rock sources and is primarily silty clay loam (Natural Resources Conservation Service, 2019).

### **4.7.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS**

#### **4.7.3.1 Federal**

##### ***National Pollutant Discharge Elimination System***

The federal CWA addresses both point and non-point sources of pollution, which are controlled through the National Pollution and Discharge Elimination System (NPDES). In some states, the USEPA has delegated permitting authority for to the RWQCB. In this case, the permitting authority is the SWRCB. The SWRCB requires a Construction General Permit if a project will disturb one or more acres of soil. The Construction General Permit requires a site-specific SWPPP that describes BMPs that are implemented during construction. The goal of the SWPPP is to limit erosion during construction-related earth moving, mass grading, cut and fill activities, and to prevent sediment-laden stormwater and other potential pollutants from being transported offsite. Refer to **Section 4.10.2** for a discussion of the water quality regulatory setting.

##### ***National Earthquake Hazards Reduction Act***

In 1997, the U.S. Congress passed the Earthquake Hazards Reduction Act to “reduce the risks to life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards and reduction program.” To accomplish this, the act established the National Earthquake Hazards Reduction Program (NEHRP). This program has been reviewed and reauthorized periodically by Congress, with the last reauthorization occurring in 2018 (Federal Emergency Management Agency [FEMA], 2019).

The role of NEHRP is to collaborate with FEMA, the National Institute of Standards and Technology, the National Science Foundation, and the U.S. Geological Survey, to improve the understanding of earthquake hazards and risk and reduce the Nation’s vulnerability to earthquakes (FEMA, 2019).

#### **4.7.3.2 State**

##### ***California Building Code***

The California Building Code (CBC), (CCR Title 24 Part 2), is a portion of the California Building Standards Code (CBSC). The CBSC is published every three years, with the latest triennial edition published in 2019. Title 24 is assigned to the California Building Standards Commission, which, by law, is responsible for coordinating all building standards. Under State law, all building standards must be centralized in Title 24 or the standards are not enforceable. The purpose of the CBC is to establish minimum requirements to safeguard the public health, safety, and general welfare and to provide safety to firefighters and emergency responders during emergency operations. CBC Title 24 provisions are minimum building standards and thus local amendments must be equivalent or more restrictive. The provisions apply to construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to buildings and structures in California.

Chapter 16 of the CBC outlines structural design requirements, including design for seismic hazards. Section 1613 states that every structure shall be designed and constructed to resist the effects of earthquake motions

and includes requirements for determining Seismic Design Categories. Design requirements are specific to a building's Seismic Design Category.

### ***Alquist-Priolo Earthquake Fault Zoning Act***

The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972; it prohibits the placement of structures intended for human occupancy from being built across active fault traces in California. The Act requires delineation of zones (Alquist-Priolo zones) along active faults to regulate development on or near active fault traces. For the purposes of the Act, active faults are those that have ruptured in the last 11,000 years. This Act only addresses the hazards of surface fault rupture and is not intended to regulate activities relating to other earthquake hazards such as liquefaction, landslides, or tsunamis. Cities and counties are required to regulate development projects within Alquist-Priolo zones.

### ***Seismic Hazards Mapping Act***

This Seismic Hazards Mapping Act requires cities, county, and local permitting agencies to regulate urbanization development and redevelopment projects within seismic hazard zones that have been delineated by the State Geologist. Before a development permit can be granted to a proposed project located in a seismic hazard zone, a geotechnical investigation of the site must be conducted and appropriate mitigation measures incorporated into the project design.

### ***Surface Mining and Reclamation Act of 1975***

The California Surface Mining and Reclamation Act (SMARA) is part of the California PRC, Division 2, Chapter 9, § 2710, et seq. SMARA requires classification of land into Mineral Resource Zones (MRZ) according to the mineral potential of that area.

Natural resources can include geologic deposits of valuable minerals used in various manufacturing processes and the production of construction materials. SMARA was enacted to limit new development in areas with significant mineral deposits and requires the State Geologist to classify lands within California based on mineral resource availability. The classifications are categorized by MRZs, according to the presence or absence of significant mineral resources. The classification process disregards existing land use or land ownership and is based solely on subsurface geology. The primary goal of classifying MRZs is to ensure local governments recognize the mineral potential of the land before making land use decisions that preclude mining of the geological resource.

### ***CEQA***

The CEQA provides protection for unique paleontological resources and unique geologic features, and requires that planners consider impacts to such resources in the project review process. CEQA distinguishes between ubiquitous fossils that are of little scientific consequence, and those that are of some importance by providing protection for the latter.

While CEQA does not precisely define unique paleontological resources, criteria established by the Society of Vertebrate Paleontology (SVP) provide guidance. The SVP defines a significant paleontological resource as one that meets one or more of the following criteria: 1) provides important information shedding light on evolutionary trends and/or helping to relate living organisms to extinct organisms; 2) provides important information regarding the development of biological communities; 3) demonstrates unusual circumstances in the history of life; 4) represents a rare taxon or a rare or unique occurrence, is in short supply, and is in danger of being destroyed or depleted; 4) has a special and particular quality, such as being the oldest of its

type or the best available example of its type; or 5) provides important information used to correlate strata for which it may be difficult to obtain other types of age dates.

#### **4.7.3.3 Local**

##### ***San José Municipal Code***

Title 24 of the City's 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. The Applicant shall submit a geotechnical report when applying for a Geological Hazard Clearance.

##### ***San José General Plan***

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

- **EC-3.1:** Design all new or remodeled habitable structures in accordance with the most recent CBC and California Fire Code as amended locally and adopted by the City, including provisions regarding lateral forces.
- **EC-4.1:** Design and build all new or remodeled habitable structures in accordance with the most recent CBC and municipal code requirements as amended and adopted by the City , including provisions for expansive soil, and grading and stormwater controls.
- **EC-4.2:** Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City Geologist shall review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
- **EC-4.4:** Require all new development to conform to the City's Geologic Hazard Ordinance.
- **EC-4.5:** Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 15.

- **EC-4.11:** 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.
- **EC-4.12:** Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of a grading permit by the Director of Public Works.
- **ES-4.9:** Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

#### **4.7.4 IMPACTS EVALUATION**

**A. A-i. No Impact:** The site is not located within a fault rupture hazard zones (Santa Clara County, 2012) and no known active faults cross the project site. The risk of ground rupture within the project site is considered low.

**A-ii. Less-Than-Significant Impact:** The project site is located within the seismically active Bay Area region. Due to its location in a seismically active region, the proposed structure would be subject to moderate to strong seismic ground shaking during the lifetime of the project in the event of a major earthquake on any of the region's active faults. The Fuel Station Project would involve constructing a fuel station and convenience store where those previously existed and would be designed and constructed to comply with building codes and with the issuance of a building permit from the City. The impact of seismic shaking would be less than significant with the implementation of the standard permit condition below and would, therefore, not increase seismic hazards compared to existing conditions.

##### *Standard Permit Condition*

To avoid or minimize potential damage from seismic shaking, the Fuel Station Project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the project site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City's 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 Fuel Station Project shall be designed to withstand soil hazards identified on the site and the shall be designed to reduce the risk to life or property onsite and offsite to the extent feasible and in compliance with the Building Code.

**A-iii. Less-Than-Significant Impact:** The project site may be subject to strong ground shaking in the event of a major earthquake. During an earthquake, liquefaction may occur, which is when a partially saturated sand layer loses strength due to excess pore pressure. Although located within the designated County of Santa Clara Liquefaction Hazard Zone, the potential for liquefaction at the project site is low because the layering soil types and vicinity consists of silty clay loam from the surface followed by fine sandy loam at a depth of more than roughly 4 feet; clay and loamy soils have low potential for liquefaction (NRCS, 2019).

**A-iv. No Impact:** The project site has no appreciable vertical relief and is not subject to landslides. Because the project site is flat, it would not be impacted by static or dynamic landslides.

- B. Less-Than-Significant Impact:** The Fuel Station Project would not result in substantial soil erosion. The existing fuel station has insignificant soil exposure, with the majority of the area being paved and impervious. The new construction and planned improvements would have erosion control measures in place during construction.

With the implementation of the standard permit conditions, the Fuel Station Project would not result in significant soil impacts.

*Standard Permit Condition*

- 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 would be installed, if necessary, to divert runoff around excavations and graded areas.
- C. No Impact:** The project site is located on flat ground and would not be exposed to substantial slope instability, erosion, or landslide-related hazards. See A. above for more information.
- D. No Impact:** The only project-related impacts to the project site are the construction of a fuel station and convenience store where the previous building were located. The Fuel Station Project, therefore, would not be subject to the effects of expansive soils compared to existing conditions. See B. above for more information.
- E. No Impact:** The Fuel Station Project is in an area with sewer connections and therefore does not include any septic systems.
- F. Less-Than-Significant Impact:** The area is mapped in Appendix J of the General Plan EIR as an area of high paleontological sensitivity at depth, but not at the surface. The project site has been previously disturbed to support the existing development. The project site development has a low potential to impact undiscovered paleontological resources, based on the age and type of surface soils. It is possible, however, that deeper soils may contain older Pleistocene sediments, which have a higher sensitivity for paleontological materials. Activities that involve substantial excavation would have a higher potential for encountering paleontological deposits. Construction activities could, therefore, result in the accidental destruction or disturbance of paleontological sites, which could convey important information. Although not anticipated, construction activities associated with implementation of the Fuel Station Project could result in a significant impact to paleontological resources, if encountered. Implementation of the standard permit conditions listed below would ensure impacts to paleontological resources remain at a less-than-significant level. In accordance with General Plan Policy ER-10.3, the standard permit condition included below would be implemented by the Field Station Project to reduce and avoid impacts paleontological resources.

*Standard Permit Condition*

- If vertebrate fossils are discovered during construction, all work on the project site shall stop immediately, the Director of Planning or Director's designee of the Department of PBCE shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to,

preparation and recovery of fossil materials so that the materials can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Applicant shall be responsible for implementing the recommendations of the paleontological monitor. A report of all findings shall be submitted to the Director of Planning or Director's designee of PBCE.

### 4.7.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on geology and soils with the incorporation of standard permit conditions.

## 4.8 GREENHOUSE GAS EMISSIONS

### 4.8.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Source(s)
7. GREENHOUSE GAS EMISSIONS. Would the Fuel Station Project:					
a) Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?			X		1, 2, 3, 9
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?			X		1, 2, 3, 9

### 4.8.2 SETTING

Various gases in the Earth's atmosphere, classified as atmospheric GHGs, play a critical role in determining the Earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. GHGs, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide, methane, O<sub>3</sub>, water vapor, nitrous oxide, and chlorofluorocarbons. Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.

### 4.8.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

Federally, the USEPA has the authority to regulate emissions of GHGs and implement the CAA. Statewide, California has adopted SB 32, amended in September 2016. This requires the California Air Resources Board (CARB) to establish State-wide GHG emissions cap for 2020 and adopt mandatory reporting rules for significant sources of GHG. The Climate Change Scoping Plan, a comprehensive plan adopted by CARB, identifies how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms, and other actions. The Climate Change Scoping Plan was updated in December 2017 to provide a framework for achieving the 2030 target to ensure statewide GHG emissions are reduced to 40 percent below 1990 levels by 2030. CARB adopted amendments to the "Pavley" regulations that are designed to reduce GHG emissions in new passenger vehicles. It is expected that the Pavley regulations will reduce the GHG emissions from new California passenger vehicles by approximately 30 percent in 2016, all while improving fuel efficiency and reducing motorists' costs.

SB 375, also known as the Sustainable Communities Strategy (SCS) and Climate Projection Act, was signed into law in September 2008. This SB requires CARB to develop regional GHG reduction targets for automobiles and light truck sections for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the Bay Area includes a 7 percent reduction by 2020 and a 15 percent reduction by 2035.



Regionally, the Bay Area has adopted the Plan Bay Area 2040. Consistent with the requirements of SB 375, the MTC partnered with the ABAG, BAAQMD, and Bay Conservation and Development Commission to prepare the region's SCS as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as Plan Bay Area.

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 Bay Area. As discussed in the CEQA Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City and other jurisdictions in the Bay Area Air Basin often utilize the thresholds and methodology for GHG emissions developed by BAAQMD. The Guidelines include information of legal requirements, BAAQMD rules, plans and procedures, methods of analyzing GHG emissions, mitigation measures, and background information.

#### **4.8.3.1 Envision San José 2040 General Plan**

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. 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 as outlined in the CEQA Guidelines and standards for "qualified plans" as set forth by BAAQMD. These policies include the following.

- **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).
- **Action MS-14.1:** Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
- **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.
- **CD-5.1:** Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.

On December 15, 2015, the City Council certified a Supplemental Program EIR to the Envision San José 2040 Final Program EIR and re-adopted the City's GHG Reduction Strategy in the General Plan. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: 1) built environment and energy; 2) land use and transportation; and 3) recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects, at the City's

discretion. Projects that are consistent with the GHG Reduction Strategy would have a less-than-significant impact related to GHG emissions through 2020 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2020.

Beyond 2020, the emission reductions in the GHG Reduction Strategy are not sufficient to meet the City's identified 3.04 metric tons (MT) CO<sub>2</sub>e per the service population efficiency metric for 2035. As described in General Plan Final EIR, the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected City-wide emissions (10.90 MT CO<sub>2</sub>e) for the City in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a State-wide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., state-wide emissions, population, and employment in 2030) is being developed by CARB. An additional reduction of 5,392,000 MT CO<sub>2</sub>e per year would be required for the projected service population to meet the City's target for 2035.

#### 4.8.4 IMPACTS EVALUATION

- A. Less-Than-Significant Impact:** For operational GHG impacts, the BAAQMD screening size for the land use type "convenience market with gas pumps" is 1,000 sf. The Fuel Station Project exceeds the screening size and, therefore, an analysis of GHG emissions was conducted utilizing CalEEMod. BAAQMD established three thresholds of significance standards for determining if a development project would have a significant impact due to GHG emissions. The standards are: 1) demonstrated compliance with a qualified GHG Reduction Strategy; or 2) have annual GHG emissions of less than 1,100 MT of CO<sub>2</sub>e per year (MT of CO<sub>2</sub>e per year); or 3) have annual GHG emissions of less than 4.6 MT per service population (residents plus employees). Projects which meet one of these three standards are considered to have a less-than-significant project impact for GHG emissions. The result of CalEEMod analysis indicates that the Fuel Station Project would generate 164.7 MT of CO<sub>2</sub>e per year. This value is below the 1,100 MT of CO<sub>2</sub> per year GHG threshold of significance, and therefore would be considered to be a less-than-significant impact.
- B. Less-Than-Significant Impact:** As described above, projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy and are considered to have a less-than-significant impact related to GHG emissions. The Fuel Station Project is consistent with the site's Neighborhood/Community Commercial General Plan land use designation and, therefore GHG emissions from project operations have been anticipated and previously analyzed in the 2040 General Plan EIR. In addition, the Fuel Station Project is a reuse of a fuel station and convenience store and would not substantially increase traffic trips as discussed in **Section 4.17**. The Fuel Station Project would not conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. The Fuel Station Project would not substantially increase GHG emissions, is consistent with the City's General Plan land use designation, and is compliant with the GHG Reduction Strategy. The Fuel Station Project would, therefore, have a less-than-significant impact related to GHG emissions.

#### 4.8.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact due to GHG emissions.

## 4.9 HAZARDS AND HAZARDOUS MATERIALS

### 4.9.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
7. HAZARDS AND HAZARDOUS MATERIALS. Would the Fuel Station Project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X		1, 2, 18
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?		X			1, 2, 18
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ mile of an existing or proposed school?			X		1, 2, 18
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a significant hazard to the public or the environment?			X		1, 2, 18
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X	1, 2
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X	1, 2
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?				X	1, 2

### 4.9.2 SETTING

A Phase I Environmental Site Assessment (Phase I) was prepared for the project site by Stantec (December 14, 2017) and is contained in **Appendix E**. The Phase I included a review of historical maps, a search of regulatory database and agency files, a site inspection, and consultation with the project owner. The project site is bounded by Santa Teresa Boulevard to the north, Cottle Road to the west, and multi-tenant commercial buildings to the south and the east.

The purpose of a Phase I is to identify any recognized environmental conditions (REC). A REC is defined as the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. Controlled Recognized Environmental Condition is defined by American Society of Testing and Materials Standard Practice E1527-13 as a past release of

hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority, with hazardous substances *de minimis* conditions and/or environmental considerations such as the presence of asbestos-containing materials (ACM), lead based paint radon, mold, and Pb in drinking water, which can affect the liabilities and financial obligations of the client, the health and safety of site occupants, and the value and marketability of the subject property. The Phase I identified evidence of the following RECs on the project site: 1) a 55-gallon drum with used oil filters; 2) a 40-gallon drum with used antifreeze; 3) two 5-gallon buckets with used gear oil; 4) minor oil staining of the auto shop; and 5) a leaking UST (LUST) that contaminated soil and groundwater on the property. According to GeoTracker, the subject property has a closed LUST case in relation to a fuel release detected in the soil and well used for drinking water. This case was closed by the Santa Clara Valley RWQCB in 1991, reopened in 1998, and closed in 2015 after remediation and monitoring.

A Phase II Environmental Site Assessment (Phase II) was prepared for the project site by Stantec (June 14, 2018) and is contained in **Appendix E**. The Phase II collected and analyzed soil and groundwater samples from the project site. The Phase II was completed to investigate the possible remnants of contamination from past LUSTs that were identified in the Phase I. The results indicated the presence of residual fuel byproducts and metals (some of which are known to be naturally occurring); however, at levels which resulted in a conclusion of no additional assessment being recommended prior to construction of the proposed project, the Phase II did note that residential hydrocarbon may be encountered during demolition and construction activities.

The project site was historically vacant and undeveloped until 1974 when it was developed into a fuel station with a convenience store. This development remains at present.

### **4.9.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS**

The General Plan includes the following policies applicable to all development projects in the City.

- **EC-7.1:** For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
- **EC-7.2:** Identify existing soil, soil vapor, groundwater, and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor, and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State, and federal laws, regulations, guidelines and standards.
- **EC-7.5:** On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
- **EC-7.8:** Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City shall ensure that feasible mitigation measures that would 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.

- **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.

#### **4.9.4 IMPACTS EVALUATION**

- A. Less-Than-Significant Impact:** Construction and demolition activities would be subject to all local, State, and federal regulations related to the use, storage, and transportation of any hazardous materials such as paint, solvents, and petroleum products. During operations, the proposed fuel station would not involve additional routine transport, use, or disposal of hazardous materials than presently required. Therefore, impacts related to the creation of a significant hazard to public or the environment through the routine transport, use, or disposal of hazardous materials would be less than significant.
- B. Less-Than-Significant Impact with Mitigation:** The Phase I identified the presence a 55-gallon drum with used oil filters, a 40-gallon drum with used antifreeze, two 5-gallon buckets with used gear oil, and minor oil staining on the floor of the auto repair shop. Furthermore, there is potential that residual hydrocarbon impact could be encountered during demolition and construction. Accordingly, implementation of the Fuel Station Project could expose construction workers and the environment to hazardous materials. Due to the residual contamination, the Santa Clara County Department of Environmental Health (SCCDEH) included the following conditions in a fuel leak closure letter dated November 2, 2015:

“Residual contamination in soil and groundwater remains at the site that could pose an unacceptable risk under certain site development activities such as site grading, excavation, or the installation of water wells. The County and the appropriate planning and building department shall be notified prior to any changes in land use, grading activities, excavation, and installation of water wells. This notification shall include a state[ment] that residual contamination exists on the property and list all mitigation actions, if any, necessary to ensure compliance with this site management requirement.”

Implementation of **MM HAZ-1** and **MM HAZ-2** would avoid potentially significant impacts related to possible hazardous materials at the project site.

**MM HAZ-1.** Prior to the issuance of any demolition or grading permits, the Applicant shall contact the SCCDEH, or equivalent, to discuss the proposed redevelopment project and perform any other necessary investigations and studies to address the potential residual contamination as deemed necessary. The regulatory agency may require a Site Management Plan (SMP), or similar document, to manage the cleanup of potentially contaminated soils. If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils. If required, the SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions.

- A detailed discussion of the site background
- Proper mitigation as needed for demolition of existing structures
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program
- Management of underground structures encountered, including utilities and/or USTs
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., USTs, polychlorinated biphenyls, ACMs, lead-based paint, etc.) is discovered during excavation or demolition activities
- A Health and Safety Plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection

The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction. The SMP, or similar document, shall be submitted to the SCCDEH, or equivalent, for review and approval. A copy of the documentation shall be submitted to the Director of PBCE or the Director's designee and the Municipal Compliance Officer of the City's Environmental Services Department for approval prior to the issuance of any grading permits.

**MM HAZ-2.** Prior to any UST removal activities, including excavation, the Applicant shall contact the City of San José Fire Department (SJFD) and the SCCDEH and coordinate any necessary field inspections with any required permits and paperwork from both agencies. The Applicant must coordinate with the oversight agency any pre- and post-removal sampling of the UST and surrounding soil/and or groundwater. The Applicant must also complete and submit an Underground Storage Tank System Closure Permit Application with the SCCDEH and an Underground Storage Tank System Closure Application (UN-003) with the SJFD.

- C. Less-Than-Significant Impact:** The project site is not located within ¼ mile (1,320 feet) of a school. The nearest schools are Oak Grove Elementary located approximately 2,000 feet to the northeast of the project site, Santa Teresa Elementary School located approximately 2,500 feet to the southeast, Bertha Taylor Elementary School located approximately 2,600 feet to the southwest, Familiar Footsteps Daycare 350 feet to the northwest, and Legacy Christian School located approximately 3,500 feet to the southeast.
- D. Less-Than-Significant Impact:** The project site is identified on several databases, related to its past LUST. The Phase I concluded that the project site does contain a REC related to the database results (refer to **Appendix E**). Fuel-Related contamination had been found in the soil and groundwater beneath the project site. Investigation and remediation occurred from 1998 until 2015, when the site was closed. A Phase II was performed that included extensive on-site sampling to investigate potential soil and groundwater contamination. The Phase II sampling concluded that while no further assessment was warranted, there was a potential for residual hydrocarbons to be present during demolition and construction. The fuel tank is below ground and would not impact the public. The Fuel Station Project is not expected to encounter contamination from the leak;

however, if unexpected contamination is encountered; SCCDEH shall be notified and an environmental professional shall be retained to implement proper soil management procedures as outlined in the mitigation measures above.

- E. No Impact:** The project site is not located within an airport land use plan and would not result in a safety hazard to airport operations.
- F. No Impact:** The proposed reuse of the site would not interfere with any adopted emergency or evacuation plans. The Fuel Station Project would be required to comply with all Building and Fire codes.
- G. No Impact:** The Fuel Station Project would not expose people or structures to risk from wildland fires as it is located in a highly urbanized area that is not prone to such events.

### 4.9.5 CONCLUSION

With implementation of mitigation measures, the Fuel Station Project would have a less-than-significant impact due to hazards and hazardous materials.

## 4.10 HYDROLOGY AND WATER QUALITY

### 4.10.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation	Less-Than-Significant Impact	No Impact	Checklist Source(s)
8. HYDROLOGY AND WATER QUALITY. Would the Fuel Station Project:					
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?			X		1, 2
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Fuel Station Project may impede sustainable groundwater management of the basin?			X		1, 2
c) Substantially alter the existing drainage pattern of the project 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:			X		1, 2
(i) result in substantial erosion or siltation onsite or offsite;			X		1, 2
(ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding onsite or offsite;			X		1, 2
(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or			X		1, 2
(iv) impede or redirect flood flows?			X		1, 2, 19
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?				X	1, 2, 19
e) Conflict with or obstruct implementation of a water quality control plan or a sustainable groundwater management plan?				X	1, 2

### 4.10.2 SETTING

The project site is an essentially flat lot with an elevation of approximately 185 feet amsl. The project site is currently a 76® fuel station and is fully developed with buildings and pavement. The City Public Works Department operates and maintains the storm drainage system in the City. Currently, stormwater runs off the project site to either a curb-attached inlets connected to a 36-inch diameter vitrified clay pipe (VCP) storm drain main along the Cottle Road project frontage or a 54-inch diameter storm drain main along the Santa Teresa Boulevard frontage that serve the project site.

The project site does not contain any natural drainages or waterways. The nearest waterway is the terminus of Canoas Creek within the Guadalupe River Watershed, located about 475 feet southwest of the project site. The channelized creek terminates at the western boundary of Cottle Road. The Flood Insurance



Rate Maps issued by FEMA indicate that the project site is located within Flood Zone D (FEMA, 2019). The project site is not located within a designated FEMA 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. The project site is located at 185 feet amsl and is relatively flat. The surface gradient is generally towards the west. The City does not have any floodplain restrictions for development in Zone D.

Groundwater levels typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The depth to groundwater under the project site is approximately 16.5 feet. The project site is mostly composed of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

#### **4.10.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS**

The federal CWA and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set by the USEPA and the SWRCB have been developed to fulfill the requirements of this legislation. The USEPA's regulations include the NPDES permit program, which control sources that discharge pollutants into Waters of the United States (e.g., lakes, streams, bays). These regulations are implemented at the regional level by water quality control boards; for the San José area, the RWQCB is the San Francisco Bay RWQCB. The RWQCB is tasked with the preparation and revisions of the Water Quality Control Plan, also known as the Basin Plan. The RWQCB implements the Basin Plan by issuing and enforcing water discharge requirements to control water quality and protect beneficial uses.

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit, administered by the SWRCB. The Construction General Permit requires the installation and maintenance of BMPs to protect water quality until the project site is stabilized. The Fuel Station Project is expected to require Construction General Permit coverage based on the area of land disturbed.

Prior to the commencement of construction or demolition, the Applicant must file a Notice of Intent (NOI) with the SWRCB and develop, implement, and maintain a SWPPP to control the discharge of stormwater pollutants associated with construction activities.

All development projects, whether subject to the Construction General Permit or not, shall comply with the City's Grading Ordinance that requires the use of erosion and sediment controls to protect water quality while the project site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season, the Applicant shall submit to the Director of Public Works an Erosion Control Plan detailing BMPs that would prevent the discharge of stormwater pollutants.

The City is required to operate under a Municipal Stormwater NPDES Permit to discharge stormwater from the City's storm drain system to surface waters. On October 14, 2009, the San Francisco Bay RWQCB adopted the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP) for 76 Bay Area municipalities, including the City of San José. The MRP mandates that the City use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects.

- Projects that create or replace 10,000 sf or more of impervious surface

- Special Land Use Categories that create or replace 5,000 sf or more of impervious surface
- The MRP requires regulated projects to include Low-Impact Development (LID) practices, such as site design measures, pollutant source control measures, and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained.

The City has developed policies that implement Provision C.3, consistent with the MRP. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City's Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects.

The Fuel Station Project is a reuse of an existing developed site and would not create new impervious surfaces. Therefore, the Fuel Station Project would not be required to comply with the LID stormwater management requirements of Provision C.3 of the MRP.

The General Plan includes hydrology and water quality policies applicable to the Fuel Station Project, including the following.

- **EC-4.1:** Design and build all new or remodeled habitable structures in accordance with the most recent CBC and municipal code requirements as amended and adopted by the City, including provisions for expansive soil, and grading and stormwater controls.
- **EC-5.16:** Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
- **EC-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.
- **ER-8.1:** Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) policies.
- **ER-8.3:** Ensure that private development in the City includes adequate measures to treat stormwater runoff.
- **ER-8.5:** Ensure that all development projects in the City maximize opportunities to filter, infiltrate, store, and reuse or evaporate stormwater runoff onsite.

#### **4.10.4 IMPACTS EVALUATION**

- A. Less-Than-Significant Impact:** The Fuel Station Project includes the demolition of an existing fuel station, convenience store, and service station, and the construction of a new 7-Eleven fuel station and convenience store. The Fuel Station Project would not permanently alter any waste discharge processes or requirements currently in-place for the existing fuel station. Impacts or contamination to groundwater would be decreased with implementation of the Fuel Station Project because the new facility would not include a service station, which generates waste oil,

and other contaminants, therefore, use of the project site would result in a less-than-significant impact to groundwater quality compared to the existing site use.

During the demolition and construction phase of the Fuel Station Project, grading and excavation activities may result in temporary impacts to surface water quality. When disturbances to underlying soils occur, the surface runoff that flows across the project site may contain sediments. The contractor is required to make the appropriate arrangements to eliminate those discharges to the storm drainage system. Construction would not disturb more than one acre of soil and therefore would not require coverage under the State's NPDES Construction General Permit. The following standard permit conditions shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction.

*Standard Permit Conditions*

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall be required to maintain at least 2 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 may also be installed at the request of the City.
- The Applicant shall comply with the City's Grading Ordinance, including implementing erosion and dust control measures during site preparation and complying with the City's Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

**B. Less-Than-Significant Impact:** Groundwater depth is greater than 16.5 feet and the maximum depth of excavation is anticipated at 14 feet. Furthermore, implementation of the Fuel Station Project would reduce impervious area by approximately 522 sf compared to existing conditions. The Fuel Station Project would not substantially deplete groundwater supplies nor interfere substantially with groundwater recharge because the Fuel Station Project would not access groundwater.

**C. c-i. Less-Than-Significant Impact:** The Fuel Station Project would not substantially alter the existing drainage pattern of the current fuel station. Furthermore, there are no rivers or streams within the project site.

- c-ii. Less-Than-Significant Impact:** The Fuel Station Project does not propose any new structures that would increase impervious surfaces onsite and, therefore, would not generate additional runoff compared to existing conditions nor substantially alter the existing drainage pattern of the project site.
- c-iii. Less-Than-Significant Impact:** The Fuel Station Project would not create or contribute additional runoff water because it would not increase the total area of the impervious surfaces or alter the existing drainage pattern in a way that additional runoff would be created. The project site plan can be viewed in **Figure 5**. Through the implementation of the standard permit conditions and the BMPs outlined in impact evaluation A. above, the Fuel Station Project would not provide a substantial additional source of polluted runoff.
- c-iv. Less-Than-Significant Impact:** The Fuel Station Project is located within Flood Zone D. The project site is not located within a designated FEMA 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D. The proposed reuse of an existing fuel station would not introduce new structures that would impede or redirect flood flows.
- D. No Impact:** The project site is not in a seiche, tsunami, or mudflow hazard area according to the ABAG Earthquake and Hazard Program. The project site is not within a flood hazard zone as the project site located within Flood Zone D.
- E. No Impact:** The Fuel Station Project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional NPDES permit. To meet these requirements, the Fuel Station Project proposes to utilize the landscape areas, such as bioretention areas, to treat runoff from the roofs and impervious areas. Stormwater runoff from these areas would drain into the drainage management areas. The proposed stormwater management complies with the requirements of C.3 Stormwater Handbook. The General Plan Final EIR 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, operation of the Fuel Station Project would have a less-than-significant water quality impact.

### 4.10.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on hydrology and water quality with the incorporation of standard permit conditions.

## 4.11 LAND USE

### 4.11.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
9. LAND USE AND PLANNING. Would the Fuel Station Project:					
a) Physically divide an established community?				X	1, 2
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?			X		1, 2, 22

### 4.11.2 SETTING

The 0.47-gross acre project site is located in an urban area within City limits. The project site is surrounded by commercial and residential land uses. A hospital is located approximately 0.25 miles to the northeast. The project site is designated NCC in the General Plan. The NCC land use designation allows a mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. The Fuel Station Project is also within the boundaries of the Santa Teresa Boulevard/Cottle Urban Village growth area. The project site is in the CP Zoning District, which requires a Conditional Use Permit approval for a fuel station. The CP Zoning District is intended to support the commercial goals and policies of the General Plan in relation to Urban Villages. The project site is currently occupied by a 76® fuel station, convenience store, and automotive care shop.

### 4.11.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

The General Plan includes the following land use policies applicable to the Fuel Station Project.

- **CD-1.1:** Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
- **CD-1.12:** Install and maintain attractive, durable, and fiscally and environmentally sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafés, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping, and other amenities.

### 4.11.4 IMPACTS EVALUATION

- A. No Impact:** The Fuel Station Project would be a redevelopment of an existing fuel station and convenience store, and would not physically divide an established community. The convenience store and 24-hour operations would assist in serving the needs of the 24-hour hospital northeast

of the project site and the surrounding community. The project site is adjacent to commercial uses and would not substantially change the characteristics of the area. Therefore, development of the Fuel Station Project would not physically divide an established community.

- B. Less-Than-Significant Impact:** The project site is designated in the General Plan as NCC and is within the Santa Teresa/Cottle Road Urban Village growth area. Currently the Santa Teresa/Cottle Road Urban Village growth area does not have an adopted Urban Village Plan; therefore, project consistency is determined by a project's consistency with the General Plan land use designation and other applicable General Plan policies. This land use designation is intended for commercial uses such as neighborhood-serving retail stores and services, commercial and professional offices, and private community gathering facilities. This land use designation is meant primarily for smaller commercial businesses that can provide services to and amenities for the community. The allowed building intensity for this designation is a Floor Area Ratio of up to 3.5. The proposed redevelopment of an existing commercial site would be consistent with the General Plan's NCC designation. Refer to the discussion of the HCP and associated mitigation in **Section 4.4.1**, Question f.

### 4.11.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on land use and planning.

## 4.12 MINERAL RESOURCES

### 4.12.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
10. MINERAL RESOURCES. Would the Fuel Station Project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?				X	1, 2, 3
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?				X	1, 2, 3

### 4.12.2 SETTING

Under SMARA, the State Mining and Geology Board has designated only the Communications Hill Area of the City as containing mineral deposits of regional significance for aggregate (Sector EE), which was identified in the General Plan. The Communications Hill Area is the only area in the City with this designation. The project site is not located in the Communications Hill Area.

### 4.12.3 IMPACTS EVALUATION

**A-B. No Impact:** The project site is located outside of the Communications Hill Area, the only area in the City containing mineral deposits subject to SMARA. The Fuel Station Project would, therefore, not result in a significant impact from the loss of availability of a known mineral resource.

### 4.12.4 CONCLUSION

The Fuel Station Project would have no impact on mineral resources.

## 4.13 NOISE

### 4.13.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
11. NOISE. Would the Fuel Station Project result in:					
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project site in excess of standards established in the General Plan or noise ordinance, or applicable standards of other agencies?			X		1, 2, 3
b) Generation of excessive groundborne vibration or groundborne noise levels?			X		1, 2, 3
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 2 miles of a public airport or public use airport, would the Fuel Station Project expose people residing or working in the project area to excessive noise levels?				X	1, 2

### 4.13.2 SETTING

Noise is measured in decibels (dB), and is typically characterized using the A-weighted sound level ( dBA). This scale gives greater weight to the frequencies to which the human ear is most sensitive. Ground vibration is generally correlated with the velocity of the ground, which is expressed in dB or peak particle velocity (PPV). The General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 p.m. and 7 a.m. by 10 dB to reflect the impact of the noise.

### 4.13.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

#### 4.13.3.1 General Plan

The General Plan includes goals and policies pertaining to Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element). The General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for commercial uses. The General Plan and the City's Municipal Code include the criteria in **Table 10** for land use compatibility and acceptable noise levels in the City.



TABLE 10. EXTERIOR NOISE EXPOSURE (DNL IN DECIBELS DBA) FROM GENERAL PLAN TABLE EC-1: LAND USE COMPATIBILITY GUIDELINES FOR COMMUNITY NOISE IN SAN JOSÉ						
Land Use Category	Exterior DNL Value In Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals, and Residential Care						
2. Outdoor Sports and Recreation, Neighborhood Parks, and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arenas, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
<b>Normally Acceptable:</b> Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.						
<b>Conditionally Acceptable:</b> Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.						
<b>Unacceptable:</b> New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. (Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.)						

- Policy EC-1.1 of the General Plan calls for locating 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 the City are described in the **Table 10** above.
- Policy EC-1.2 of the General Plan considers noise impacts significant if a project would increase noise levels on adjacent sensitive land uses including residences by either of the following.
  - Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain “Normally Acceptable”
  - Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level
- Policy EC-1.7 of the General Plan requires construction operations to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:
  - involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

- Policy EC-2.3 of the General Plan requires new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 inches per second (in/sec) PPV shall be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV shall be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to excavation equipment, static compaction equipment, vibratory pile drivers, pile-extraction equipment, and vibratory compaction equipment. The use of impact pile drivers shall be avoided within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, the distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies there would be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there would be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

#### 4.13.3.2 San José Municipal Code

Per the City's Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the dB levels indicated in **Table 11** below at any property line, except upon issuance and in compliance with a Special Use Permit as provided in Chapter 20.100.

TABLE 11. CITY OF SAN JOSÉ ZONING ORDINANCE NOISE STANDARDS	
Land Use Types	Maximum Noise Levels in Decibels at Property Line
Commercial or industrial uses adjacent to a property used or zoned for residential purposes	55
Commercial or industrial uses adjacent to a property used or zoned for commercial or other non-residential purposes	60
Industrial use adjacent to a property used or zoned for industrial or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. and 7:00 p.m. from Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.

#### ***Existing Noise Environment and Sensitive Receptors***

The existing noise environment in the project area is traffic along SR 85, a major 6-lane freeway located 0.4 miles north of the project site, and Santa Teresa Boulevard, which is a six-lane thoroughfare that provides the only direct transportation route east to west south of SR 85. The City's General Plan EIR contour maps identified existing (2008) and future (2035) noise levels along U.S. Highway 101 and SR 85

as over 75 dBA DNL and existing and future noise levels along Santa Teresa Boulevard as between 70 and 75 dBA DNL (City of San José, 2011).

The Fuel Station Project is not a noise-sensitive receptor. The project site is located in a commercial area and the nearest sensitive receptors are residences located 150 feet southwest of the project site. A daycare center is located approximately 250 feet northwest of the project site.

A site visit was conducted on June 20, 2019 to collect noise data representative of the typical levels within the project vicinity. The measurements were A-weighted and measured the equivalent continuous sound pressure level (Leq), day-night average sound level, DNL, and sound exposure level. Five locations were selected (see **Appendix G**, Figure 1 for locations), which the measurements taken for each location can be seen in **Table 12**. As can be seen in **Table 12**, all samples collected were between 55 and 60 dBA/DNL except Location A, 71 dBA/DNL. This is the sample within the project boundary. The samples that ranged between 55 and 60 dBA/DNL were collected on side streets and neighborhoods representative of locations near the project site. The conditions during sample collection included moderate to heavy pedestrian and vehicular traffic representative of afternoon traffic conditions. The sample within the project boundary registered a noise level of 71 dBA/DNL due to the proximity to Santa Teresa Boulevard, which is a major arterial thoroughfare for east to west traffic in the area.

TABLE 12. NOISE MEASUREMENTS			
Noise Location Label	CNEL (dBA)	Leq (dBA)	DNL (or LDN) (dBA)
Location A	70.7	70.7	70.7
Location B	55.5	55.5	55.5
Location C	57.5	57.5	57.5
Location D	59.6	59.6	59.6
Location E	55.1	55.1	55.1
Source: <b>Appendix G</b>			

#### 4.13.4 IMPACTS EVALUATION

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by a project would substantially increase existing noise levels at noise-sensitive receptors on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3.0 dBA noise level increase is considered the minimum increase perceptible to the human ear. In accordance with General Plan Policy EC-1.2, project-generated noise level increases of 3.0 dBA/DNL or greater are considered significant where resulting exterior noise levels would exceed the normally acceptable noise level standard. Where noise levels would remain at or below the normally acceptable noise level standard with a project, a noise level increase of 5.0 dBA/DNL or greater is considered significant.

The City relies on the following guidelines, as stated above, for new development to avoid impacts in excess of the CEQA thresholds of significance outlined above.

#### **4.13.4.1 Construction Noise**

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels as described above for a period greater than 12 months as described in General Plan Policy EC-1.7 .

#### **4.13.4.2 Operational Noise**

Development allowed by the General Plan would result in increased traffic volumes along roadways throughout the City. The City considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of 3.0 dBA/DNL or more where noise levels would equal or exceed the “Normally Acceptable” level, or 5.0 dBA/DNL or more where noise levels would remain “Normally Acceptable.”

#### **4.13.4.3 Construction Vibration**

The City relies on guidance developed by the California Department of Transportation to address vibration impacts from development projects in the City. A vibration limit of 0.5 inches/sec (12.7 mm/sec), PPV for buildings structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structurally sound but where structural damage is a major concern. For historic buildings or buildings that are documented as structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec) PPV is used to provide the highest level of protection (refer to Policy EC-2.3).

### **A. Less-Than-Significant Impact:**

#### **Construction**

The Fuel Station Project consists of the demolition and construction of a fuel station and convenience store. The dominant noise source in the area is vehicular traffic on SR 85, a major freeway located just north of the project site, and Santa Teresa Boulevard located adjacent to the northern border of the project site. The nearest sensitive residential receptors are located about 150 feet southwest of the project site. During the approximately 6-month demolition and construction phase, there would be a temporary increase in noise levels. Construction at 50 feet of distance could produce noise levels up to approximately 85 Leq. To determine the approximate noise level increase at the nearest residential receptor, a noise attenuation factor of 6.0 dBA per doubling of distance was utilized (a conservative assumption assuming no shielding of noise between the Fuel Station Project and sensitive receptors). The ambient noise level measured to the nearest residential receptor, Location C, is approximately 48 dBA (**Appendix G**). The new ambient noise level at the resident receptor during construction of the Fuel Station Project was determined to be approximately 76 dBA (**Appendix G**).

Chapter 20.100.450 of the City’s Municipal Code establishes hours of construction within 500 feet of a residential unit between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. No construction activities are permitted on weekends or later hours unless authorized in a development permit. The City’s Municipal Code limits construction hours near residential land uses, and Policy

EC-1.7 in the General Plan addresses the types of construction equipment that are sources of significant noise. The following standard permit conditions would be implemented as part of the project to reduce construction noise and vibration levels consistent with the City policies.

*Standard Permit Conditions*

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

- 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 away as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler) 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 PBCE that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Implementation of the standard permit conditions would reduce the noise impact from construction. The anticipated construction period of the Fuel Station Project would be six months, and because of the time frame, construction would result in only a temporary increase in ambient noise. Therefore, construction would have a less-than-significant impact on temporary and permanent noise levels in the project area.

## Operation

Traffic noise would be the most significant source of noise from operations at the project site. As specified in **Appendix G**, to determine the effect of project-generated noise from traffic on the nearest resident receptor, AM and PM traffic volume conditions were compared to existing traffic volumes provided in **Appendix F**. The closest available traffic volume data for the project site is Santa Teresa Boulevard, east of Camino Verde Drive (which is located approximately 575 feet east of the project site), which experiences 21,303 vehicle trips per day. The project site is projected to add 71 additional daily trips to the transportation network. This would be a negligible increase in the current traffic volume on Santa Teresa Boulevard of approximately 0.3 percent. In order for the Fuel Station Project to create a noticeable increase in the ambient noise level of 3.0 dBA or greater, the existing traffic volume would have to be doubled (Caltrans, 2013). Consequently, the projected increase in traffic volume due to the Fuel Station Project would be negligible in combination with the current traffic volume (**Appendix G**), and would therefore not result in a 3 dBA or 5 dBA DNL thresholds of significance as established in Policy EC-1.2 of the General Plan. This impact would be less than significant.

The Fuel Station Project could contribute to the ambient noise levels through other methods, such as heating, ventilation, and air conditioning systems; trash enclosure activity; and fueling activities. For example, the highest operation activity noise levels determined for the operation of a 7-Eleven fuel station project in the City of Eastvale was for a trash enclosure activity and a rooftop air conditioning unit, which each produces noise levels of approximately 77 dBA Leq at a distance of 5 feet (Urban Crossroads, 2018). As specified in **Appendix G**, to determine the effect of potential operation noise activities, the noise level was calculated at the nearest residential receptor to the project site (150 feet to the southeast). Using a 6.0 dBA sound attenuation factor and the highest noise level that could occur at the project site, 77 dBA, the new ambient noise level at the residential receptor is approximately 58.5 dBA. This is an approximate increase of 0.5 dBA from the current ambient noise level, approximately 58 Leq (**Appendix G**). This increase does not meet the threshold of significance specified in Policy EC-1.2 of the General Plan, as detailed above. The impact would be less-than-significant.

- B. Less-Than-Significant Impact:** During construction, the use of heavy equipment or impact tools would generate vibration and noise. The City requires that new development minimize vibrational impacts to adjacent areas during activities associated with demolition and construction. The City's General Plan Policy EC-2.3 establishes a vibration limit of 0.2 in/sec PPV for buildings of normal conventional construction. The nearest residences are located approximately 300 feet from the project site and, at this distance, vibration levels would be expected to be less than the significant threshold of 0.2 in/sec PPV. The standard permit conditions included above are intended to reduce the effects of vibration and noise during periods of construction.
- C. No Impact:** The project site is located about 11 miles southeast of the Mineta San José International Airport and is not within the vicinity of a private airstrip. The project site is located outside the 65 dB noise contour established for the Mineta San José International Airport (Santa Clara County, 2011), which represents a less-than-significant noise impact on the project site from flight operations. Airport noise contours are a graphical representation of projected noise exposure levels associated with aircraft operations in areas adjacent to an airport.

#### 4.13.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on noise and vibration.

## 4.14 POPULATION AND HOUSING

### 4.14.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
12. POPULATION AND HOUSING. Would the Fuel Station Project:					
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X		1, 2, 3
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X	1, 2

### 4.14.2 SETTING

The population of the City is approximately 1,023,031 people (U.S. Census Bureau, 2017). The commercial use would not affect population and housing.

### 4.14.3 IMPACTS EVALUATION

- A. Less-Than-Significant Impact:** The Fuel Station Project would employ approximately five full-time equivalent positions. This does not represent substantial job growth in comparison to the anticipated growth in the City of 470,000 jobs between 2008 and 2035 (City of San José, 2020). The project site was previously occupied a fuel station, a convenience store, and an automotive care center. The new land use would result in less full-time employee positions than the existing operation due to the closing of the automotive care center portion of the facility.
- B. No Impact:** The Fuel Station Project would not result displace existing people or housing nor necessitate the construction of replacement housing.

### 4.14.4 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on population and housing.



## 4.15 PUBLIC SERVICES

### 4.15.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
13. PUBLIC SERVICES. Would the Fuel Station Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
a) Fire protection?			X		1, 2, 3
b) Police protection?			X		1, 2, 3
c) Schools?				X	1, 2, 3
d) Parks?				X	1, 2, 3
e) Other public facilities?				X	1, 2, 3

### 4.15.2 SETTING

**Fire Protection:** Fire protection services are provided to the project site by the SJFD. The closest fire station to the project site is Station 35, located at 135 Poughkeepsie Road about a mile north of the site (San José Fire Department, 2019).

**Police Protection:** Police protection services are provided to the project site by the San José Police Department (SJPD), headquartered at 201 West Mission Street. The City has 5 patrol divisions and 17 patrol districts. Over 980 officers are deployed across 178 miles of the City on a 24-hour basis to patrol or respond to emergency and non-emergency calls (San José Police Department, 2019).

**Schools:** The project site is located within the Oak Grove School District. Nearby schools are outlined below along with their respective distances:

- Santa Teresa Elementary, 6200 Drive, 0.5 mile east
- Bernal Intermediate School, 6610 San Ignacio Avenue, 1.0 miles southeast
- Santa Teresa High School, 6150 Snell Avenue, 1.35 miles

**Parks:** Nearby parks include Palmia Park located 0.4 miles to the northwest, Calero Park located 0.85 miles to the northwest, Century Oaks Park located 1 mile to the southwest, La Colina Park located 0.5 miles to the southwest, Bernal Historic Ranch Park located to the 0.6 miles south, Myuki Dog Park located 0.4 miles to the northeast, and Raleigh Linear Dog Park located 0.5 miles to the northeast.

**Other public facilities:** Santa Teresa Branch Library is located 0.2 miles northeast of the project site.

### **4.15.3 IMPACTS EVALUATION**

- A. Less-Than-Significant Impact:** The Applicant would consult with the SJFD during the final project design to ensure appropriate fire safety measures are incorporated. The Fuel Station Project would not significantly impact fire protection services or increase the demand for fire protection services over existing uses of the project site that could require the construction of new or remodeled facilities.
- B. Less-Than-Significant Impact:** The Applicant would consult with the SJPD during project design to ensure appropriate security measures are incorporated. The Fuel Station Project would not significantly impact police protection services compared to existing demands from the existing fuel station, convenience store, and automotive care center or require the construction of new or remodeled facilities.
- C. No Impact:** The proposed commercial use would have no impacts on schools because there are no additional habitants that would create additional demand for school.
- D. No Impact:** The proposed commercial use would not impact recreational services as full-time employee requirements are less than those of the existing facility.
- E. No Impact:** The proposed commercial use would not impact other public services, including library services.

### **4.15.4 CONCLUSION**

The Fuel Station Project would have a less-than-significant impact on public services.

## 4.16 RECREATION

### 4.16.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
14. RECREATION					
a) Would the Fuel Station 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?				X	1, 2
b) Does the Fuel Station Project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?				X	1, 2

### 4.16.2 SETTING

The Fuel Station Project is a replacement of an existing fuel station and convenience store that would not affect park land and facilities in the community. The nearest parks to the project site are Myuki Dog Park located 0.4 miles northeast and Palmia Park located 0.4 miles northwest of the project site. The City has adopted the Parkland Dedication Ordinance and Park Impact Ordinance that require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The Fuel Station Project would be a commercial use and is not subject to the City's Parkland Dedication and Park Impact Ordinances.

### 4.16.3 IMPACTS EVALUATION

**A-B. No Impact:** The Fuel Station Project is a replacement of an existing fuel station and convenience store on without any residential or other type of commercial component proposed. No new permanent population would migrate to the area for the few full-time positions that would be available. Therefore, the Fuel Station Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated, nor would it include public recreational facilities or require the construction or expansion of public recreational facilities.

### 4.16.4 CONCLUSION

The Fuel Station Project would have no impact on recreational facilities.

## 4.17 TRANSPORTATION

### 4.17.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Source(s)
15. TRANSPORTATION/TRAFFIC. Would the Fuel Station Project:					
a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?			X		1, 2, 20, 25
b) Conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)?			X		1, 2, 20, 21, 24
c) Substantially increase hazards due to a geometric design feature (for example, sharp curves or dangerous intersections) or incompatible uses (for example, farm equipment)?			X		1, 2
d) Result in inadequate emergency access?			X		1, 2, 24

### 4.17.2 SETTING

The project site is located at 6211 Santa Teresa Boulevard, at the southeastern corner of the intersection with Cottle Road. Santa Teresa Boulevard is classified as a City Connector Street in the General Plan. At the intersection with Cottle Road, Santa Teresa Boulevard consists of eight lanes (including two dedicated turn lanes) and is the only connector street south of SR 85 in the area. Cottle road is a four-lane local connector street that provides direct access to the hospital northeast of the project site. According to the most recent published counts, Santa Teresa Boulevard, east of Camino Verde Drive (approximately 575 feet east of the project site), experiences 21,303 vehicle trips per day. The only available count data for Cottle Road is north of SR 85; however, in this location, Cottle Road has increased in carrying capacity to a six-lane roadway and therefore the data is not comparable to the conditions of Cottle Road adjacent to the project site.

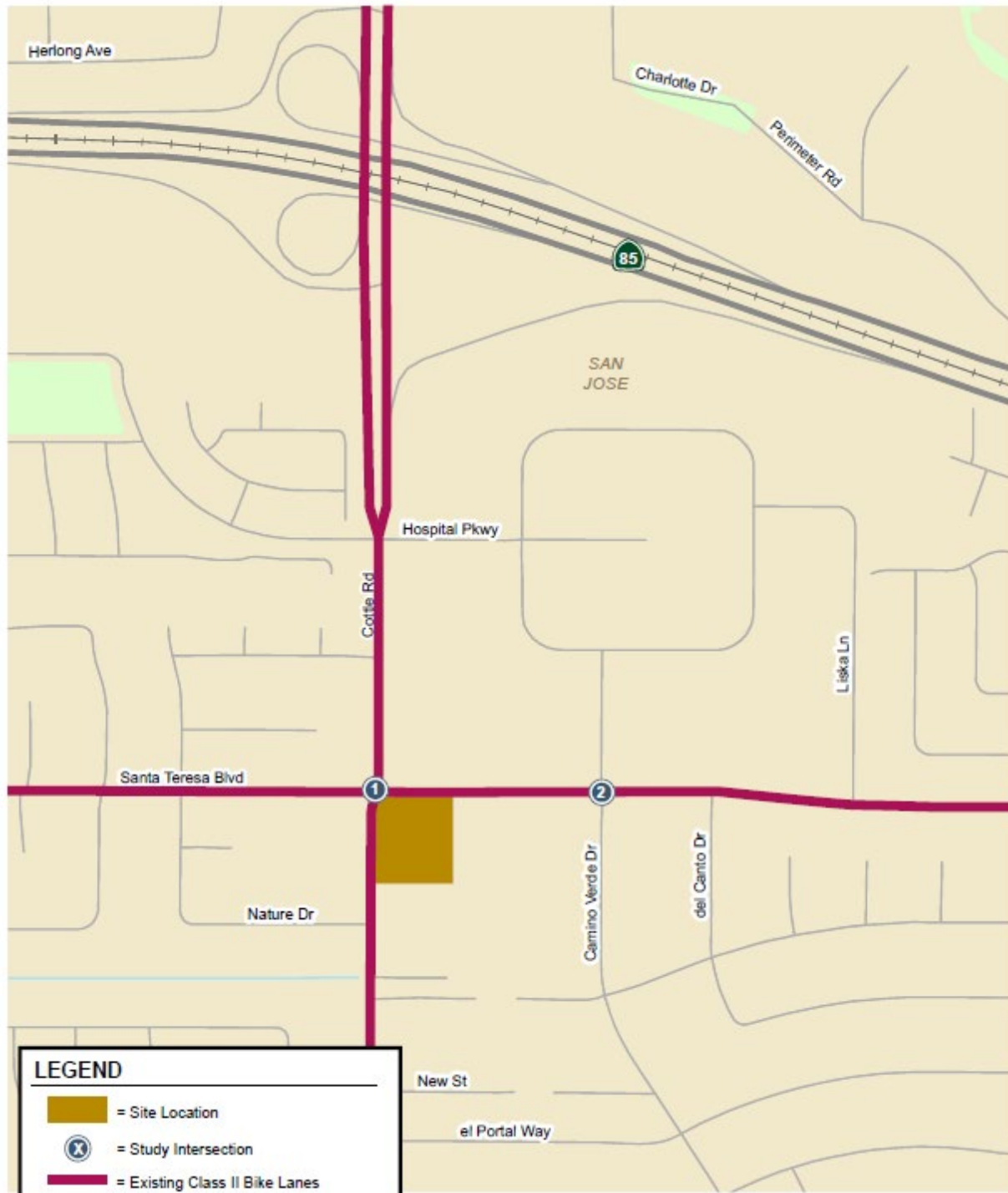
#### 4.17.2.1 Pedestrian Facilities

Pedestrian facilities consist mostly of sidewalks along the streets in the study area. Crosswalks with pedestrian signal heads and push buttons are located at all the signalized intersections in the project area. Sidewalks are present on Cottle Road and Santa Teresa Boulevard, connecting the project site to nearby bicycle and transit facilities. Overall, the existing network of sidewalks and crosswalks in the immediate vicinity of the project site has excellent connectivity and provides pedestrians with safe routes to other points of interest in the project area.

#### 4.17.2.2 Bicycle Facilities

In the project area, Class II bike lanes are present on Cottle Road and Santa Teresa Boulevard (see **Figure 6**). Green pavement enhancements are present on all intersection approaches on Cottle Road and Santa Teresa Boulevard. The bicycle facilities in the project area have good connectivity and provide bicyclists with safe routes to nearby areas.

**Figure 6**  
**Existing Bike Infrastructure**



Source: **Appendix F**, Figure 3

### 4.17.2.3 Transit Service

Existing transit service in the project area is provided by five Santa Clara Valley Transit Authority (VTA) local bus routes (Routes 27, 42, 66, 68, and 304), three VTA express bus routes (Routes 102, 122, and 182), and VTA light rail transit (LRT), as described below and shown in **Figure 7**.

### 4.17.2.4 Bus Routes

**Route 27** runs between the Good Samaritan Hospital and the Kaiser Permanente® medical campus via Cottle Road in the project area. Route 27 operates between 5:30 a.m. and 8:30 p.m. with approximately 30-minute headways during the AM and PM peak commute hours. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

**Route 42** runs between the Kaiser Permanente® medical campus and Evergreen Valley College via Santa Teresa Boulevard near the project site. Route 42 operates between 6:00 a.m. and 7:15 p.m. with approximately 45-minute headways during the AM and PM peak commute hours. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

**Route 66** runs between the Kaiser Permanente® medical campus and North Milpitas and Dixon Landing via Santa Teresa Boulevard near the project site. Route 66 operates between 5:30 a.m. and 12:00 a.m. with approximately 15- to 20-minute headways during the AM and PM peak commute hours. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

**Route 68** runs between the Gilroy Transit Center and San José Diridon via Cottle Road and Santa Teresa Boulevard near the project site. Route 68 operates between 4:00 a.m. and 1:30 a.m. with approximately 15- to 20-minute headways during the AM and PM peak commute hours. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

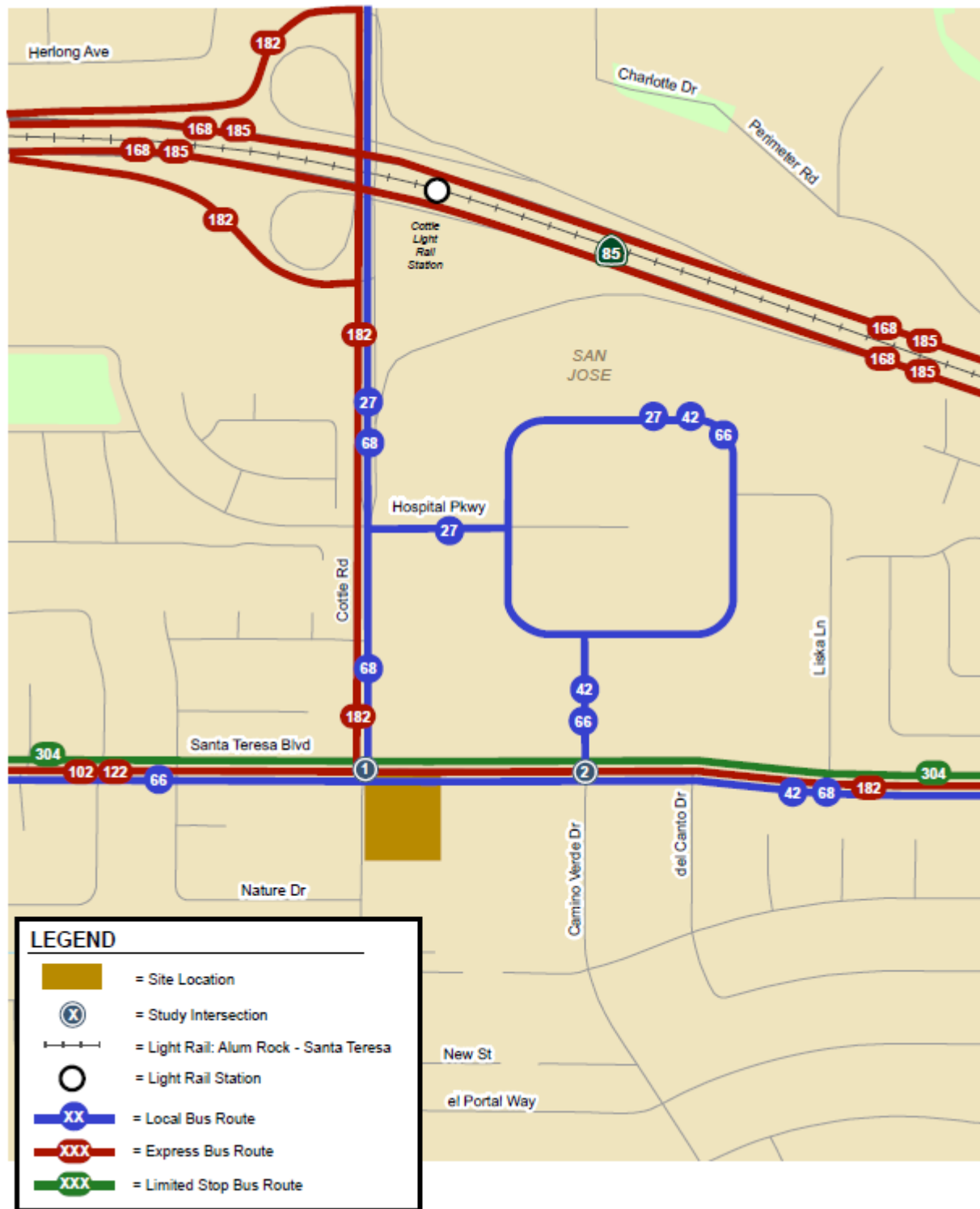
**Route 304** runs between southern portions of the City and the Sunnyvale Transit Center via Santa Teresa Boulevard near the project site. Route 304 operates between 6:00 a.m. and 9:00 a.m. in the northbound direction and 3:30 p.m. to 7:00 p.m. in the southbound direction with approximately 25-minute headways during the AM and PM peak commute hours. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

### 4.17.2.5 Express Bus Routes

**Route 102** provides express service between south portions of the City and the Stanford Research Park via Santa Teresa Boulevard near the project site. Route 102 runs in the northbound direction only in the mornings and southbound only in the afternoons. Route 102 runs between 6:00 a.m. and 9:00 a.m. in the northbound direction and 3:15 p.m. to 7:00 p.m. in the southbound direction with approximately 15- to 30-minute headways during the AM and PM peak commute hours. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

**Route 122** provides express service between southern portions of San José and the Lockheed Martin facilities via Santa Teresa Boulevard near the project site. Route 122 operates once daily in the northbound direction and once daily in the southbound direction. The northbound service is available at approximately 5:55 a.m. and the southbound service returns to the nearest bus stop at approximately 6:00 p.m. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

Figure 7  
Existing Transit Services



Source: Appendix F.

**Route 182** provides express service between the City of Palo Alto, and IBM/Bailey Avenue via Cottle Road and Santa Teresa Boulevard near the project site. Route 182 operates once daily in the northbound direction and once daily in the southbound direction. The southbound service departs from Palo Alto at approximately 7:30 a.m. and the northbound service returns to the nearest bus stop at approximately 5:20 p.m. The bus stop closest to the project site is located at Cottle Road and Santa Teresa Boulevard.

#### **4.17.2.6 Light Rail Transit System**

The VTA operates the LRT system that extends from southern portions of the City through downtown to the northern areas of the City as well as the cities of Santa Clara, Mountain View, and Sunnyvale. Service operates nearly 24 hours per day, every 15 minutes during much of the day. The Alum Rock-Santa Teresa LRT line (901) provides service to the Cottle LRT station closest to the project site. In the project vicinity, Line 901 operates within the median of SR 85. The Cottle LRT station is located on Cottle Road, approximately ½ mile from the project site. Sidewalks are present on both sides of the road, although access to the LRT station is on the east side of the Cottle Road. Striped bike lanes exist on both sides of Cottle Road between the project site and the LRT station.

### **4.17.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS**

#### **4.17.3.1 Senate Bill 743**

In April of 2018, the City published the Transportation Analysis (TA) Handbook outlining the analysis strategy to comply with the environmental review requirements of CEQA. The TA Handbook provides significance criteria, screening criteria, and thresholds of significance for environmental clearance for development projects and the appropriate methodologies, procedures, and process for determining the effects of development projects on the local transportation system. The first step in assessing a development project's impacts under the TA Handbook is to determine if the City's screening criteria apply. According to Section 3.4 of the TA Handbook, projects with a sufficiently small footprint do not require a detailed CEQA transportation analysis. Table 1 of the TA Handbook provides the definitions for what the City considers small development projects and the corresponding screening criteria. The City does not typically require an intersection level of service (LOS) analysis for "small" projects such as the Fuel Station Project because once the project-generated peak hour trips are assigned to the roadway network, the trips disperse and the number of new trips added to any intersection is effectively negligible (City of San José, 2018b).

#### **4.17.3.2 Plan Bay Area 2040**

Plan Bay Area 2040 is a State-mandated, integrated long-range transportation and land use plan. As required by SB 375, all metropolitan regions in California must complete a Sustainable Communities Strategy SCS as part of a RTP. In the Bay Area, the MTC and the ABAG are jointly responsible for developing and adopting an SCS that integrates transportation, land use, and housing to meet GHG reduction targets set by CARB.

Plan Bay Area 2040 provides a guide for accommodating projected household and employment growth in the nine-county Bay Area by 2040 as well as a transportation investment strategy for the region. Plan Bay Area 2040 details how the Bay Area can make progress toward the region's long-range transportation and land use goals.

Plan Bay Area 2040:

- describes where and how the region can accommodate 820,000 new projected households and 1.3 million new jobs between now and 2040;



- details a regional transportation investment strategy given \$303 billion in expected revenues from federal, State, regional, and local sources over the next 24 years;
- complies with SB 375, the State’s sustainable communities strategy law that integrates land use and transportation planning and mandates both a reduction in GHG emissions from passenger vehicles and the provision of adequate housing for the region’s 24-year projected population growth.

#### **4.17.3.3 Santa Clara County 2017 Congestion Management Program**

In accordance with California Statute, Government Code § 65088, Santa Clara County has established a Congestion Management Program (CMP). The purpose of the CMP is to develop a comprehensive transportation improvement program among local jurisdictions that will improve multimodal transportation system performance, land use decision-making, and air quality.

The main requirements of the CMP statutes can be summarized as follows.

1. Requires the designation of a Congestion Management Agency (CMA) in each urbanized county, to develop and update the CMP and monitor its progress over time.
2. Establishes a performance review process, by mandating the designation of a network of transportation facilities that will be periodically monitored for congestion, and by requiring the designation of a LOS standard for roadways and performance measures for all modes of travel.
3. Promotes the use of alternatives to the single-occupant automobile through trip reduction programs, land use/transportation integration strategies, and transportation demand management measures.
4. Promotes integration of decisions about land development, transportation investment, and air quality by requiring a process to determine the impacts of local development decisions on the transportation network of Santa Clara County.
5. Requires a seven-year investment strategy, referred to as a Capital Improvement Program (CIP), to support the CMP goals. The CIP is updated biennially and links project eligibility for regional/State funding to the CMP.
6. Requires a computerized travel model and uniform database for estimating future transportation needs and impacts.
7. Encourages infill development in core areas and along major transit corridors.

The VTA, as the designated CMA, has prepared the 2017 CMP in accordance with the requirements of the CMP legislation. The purpose of the 2017 CMP is to summarize the elements, policies, and procedures of the VTA CMP.

#### **4.17.3.4 General Plan (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.

#### 4.17.3.5 Transportation Analysis Policy (City Council Policy 5-1)

City Council Policy 5-1 (Transportation Analysis Policy) will replace existing City Council Policy 5-3, (Transportation Impact Policy) as the policy for transportation development review in the City. Policy 5-1 aligns the City's transportation analysis with SB 743 and the City's goals as set forth in the General Plan. Policy 5-1 establishes the thresholds for transportation impacts under CEQA, removing transportation LOS and replacing it with vehicle miles traveled (VMT). **Appendix A** defines the terms in Policy 5-1 as noted in italics.

The General Plan sets forth a vision and comprehensive strategy to guide the City's continued growth through the year 2040. The General Plan strategically links land use and transportation to reduce the environmental impacts of growth by promoting compact mixed-use development that supports walking, biking, and transit use. The General Plan seeks to focus new developments in planned growth areas, bringing together office, residential, and service land uses to *internalize trips* and reduce *VMT*. The General Plan also encourages the development and use of non-automobile transportation modes to minimize vehicle trip generation and reduce *VMT*.

#### 4.17.4 IMPACTS EVALUATION

The Fuel Station Project is considered local-serving retail as the convenience store would serve the surrounding residential development, commercial uses, and the 24-hour operating hospital. According to Table 1 of the TA Handbook, local-serving retail of 100,000 sf of total gross floor area or less without drive-through operations does not require detailed CEQA transportation analysis. As the Fuel Station Project is proposing to construct an approximately 3,056 sf 7-11 convenience market and a fueling canopy with eight fueling spaces (four fuel dispensers) without drive-through operations (in accordance with City Council Policy 6-10, *Criteria for the Review of Drive-through Uses*), the Fuel Station Project meets the exemption criterion. To further support the impact analysis, Hexagon Transportation Consultants, Inc. prepared a Local Transportation Analysis (LTA) for Fuel Station Project, which was previously occupied by a 76® fuel station, convenience store, and automotive care center. This LTA (dated January 29, 2020) is included as **Appendix F**. The Fuel Station Project would have a total of 181 trips per day. However, this number includes the increase due to the Fuel Station Project and the current trip numbers of the existing gas station. After applying the location-based adjustment, pass-by trip reductions and existing trip credits, the Fuel Station Project would generate 71 new daily trip, with 21 net trips (11 inbound and 10 outbound) during the AM peak hour and 19 net trips (11 inbound and 9 outbound) during the PM peak hour (see Table 5 of **Appendix F**).

- A. Less-Than-Significant Impact:** The Fuel Station Project proposes to replace an existing fuel station, convenience store, and automotive care shop with a new, approximately 3,056 sf 7-Eleven fuel station and convenience store. The land use, type of business, and activities would not drastically change from what currently exists on the project site. The Fuel Station Project is also not in conflict with any applicable program, plan, ordinance, or policy regarding public transit, bicycle, or pedestrian facilities, or would not otherwise decrease the performance or safety of such facilities.

##### Site Access

Site access was evaluated to determine the adequacy of the site's driveways with regard to the following: traffic volume, vehicle queues, geometric design, and stopping sight distance. On-Site

vehicular circulation and parking layout were reviewed in accordance with generally accepted traffic engineering standards and transportation planning principles. Vehicular access to the project site would be provided via two existing driveways: one driveway on Cottle Road and another driveway that is for the adjacent shopping center on Santa Teresa Boulevard. An existing access easement allows for access from the driveway on Santa Teresa Boulevard onto the project site. The existing driveway measures approximately 36 feet in width, providing adequate width for vehicular ingress and egress. The Cottle Road driveway is 32 feet in width, which is adequate width for vehicular ingress and egress.

### **Pedestrian and Bicycle Access and Circulation**

Pedestrian access to the project site would be provided via existing sidewalks on Cottle Road and Santa Teresa Boulevard and crosswalks at the Cottle Road/Santa Teresa Boulevard and Camino Verde Drive/Santa Teresa Boulevard intersections. The Fuel Station Project proposes several improvements to pedestrian facilities. The Fuel Station Project proposes to widen the sidewalk along the project frontage on Santa Teresa Boulevard and Cottle Road to 15 feet and 10 feet, respectively; to close a driveway on Santa Teresa Boulevard; and to add a 5.5-foot wide walkway for pedestrians to access the convenience store from Cottle Road. The widened sidewalks and reduced number of driveways would enhance pedestrian safety and comfort walking to and from the convenience store.

Striped bike lanes are present on Cottle Road and Santa Teresa Boulevard. The Fuel Station Project does not propose any modifications or provide additions to the existing bicycle network, nor would it conflict with any adopted plans or policies for new bicycle facilities. The Fuel Station Project proposes to provide two bicycle parking spaces onsite (one short-term and one long-term).

- B. Less-Than-Significant Impact:** Section 15064.3 of the CEQA Guidelines establishes specific considerations for evaluating a project's transportation impacts. The CEQA Guidelines identify VMT, which is the amount and distance of automobile travel attributable to a project, as the most appropriate measure of transportation impacts. Other relevant considerations may include the effects of the project on transit and non-motorized travel. VMT exceeding an applicable threshold of significance for land use projects may indicate a significant impact. Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high-quality transit corridor should be presumed to cause a less-than-significant transportation impact. Projects that decrease VMT in the project area, compared to existing conditions, should be presumed to have a less-than-significant transportation impact.

The General Plan considered VMT in the City, as considered by the General Plan planning horizon of 2040. The General Plan's Envision Task Force expresses a strong interest in minimizing the fiscal and environmental impacts of the large amount of growth that the City is expected to experience. Growth strategies to reduce the projected amount of VMT includes improving the jobs to employed residents ratio, supporting mixed-use development, and taking advantage of Bay Area Rapid Transit and other public transportation opportunities. The City has proposed a reduction of VMTs by 40 percent per service population from 2009 levels. Therefore, with the implementation of General Plan policies, the daily VMT within the City is expected to decrease indicating that development that could occur is expected to have a less-than-significant impact.

The Fuel Station Project is considered to have a less-than-significant impact on VMT because it meets the City's screening criterion for local-serving retail development. Local-serving retail typically redistributes existing shopping-related trips instead of creating new trips. New local-serving retail developments tend to shorten vehicle-trips and reduce VMT by diverting existing trips from established local retail uses to the new local retail uses without increasing trips outside the local area. The Fuel Station Project is considered to be local-serving, but the screening criteria do not explicitly address a fuel station. The fuel station trips were converted to a retail size equivalency to ensure that it would not exceed 100,000 sf (the definition of local-serving). After converting to retail trips, the approximate size of the retail equivalent is 50,500 sf. Because the Fuel Station Project meets the criteria for a local-serving retail project (i.e., less than 100,000 sf in size), the impact is considered less than significant.

- C. Less-Than-Significant Impact:** The Fuel Station Project would not substantially increase hazards due to a design feature or incompatible uses, as none are proposed. While one driveway would be removed, there is an existing access easement across the northeastern portion of the project site to provide access via the existing driveway off Santa Teresa Boulevard located between the project site and the nearby commercial building. Accordingly, the project site would remain accessible from both Cottle Road and Santa Teresa Boulevard.

The project site plan was reviewed for truck access using truck turning-movement templates for a SU-30 truck type (single unit trucks), which represents small emergency vehicles, garbage trucks, and small to medium delivery trucks. Based on the site plan configuration, adequate access would be provided for trucks to access the project site from Cottle Road and Santa Teresa Boulevard and maneuver as needed. Garbage trucks would be able to easily access the trash enclosure. Larger fuel tankers could adequately access the project site and refill fuel storage tanks. There is no conflict with traffic in opposing lanes of the adjacent streets because there are medians on both Cottle Road and Santa Teresa Boulevard.

- D. Less-Than-Significant Impact:** The Fuel Station Project would not result in inadequate emergency access since it would be required to conform to all police and fire requirements through review by the SJFD and the City's Department of Public Works.

#### **4.17.5 CONCLUSION**

The Fuel Station Project would have a less-than-significant impact on transportation.

## 4.18 TRIBAL CULTURAL RESOURCES

### 4.18.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
16. TRIBAL CULTURAL RESOURCES. Would the Fuel Station Project:					
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC § 21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
i) listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC § 5020.1 (k), or			X		1, 2
ii) a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC § 5024.1. In applying the criteria set forth in subdivision (c) of PRC § 5024.1, the Lead Agency shall consider the significance of the resource to a California Native American tribe.			X		1

### 4.18.2 SETTING

The project site has been disturbed by existing development and is covered by buildings and pavement. The project site does not contain any known historical resources (resources eligible for listing on the CRHR). No subsurface or archaeological resources have been identified during previous construction efforts onsite.

### 4.18.3 APPLICABLE PLANS, POLICIES, AND REGULATIONS

CEQA requires projects financed by or requiring the discretionary approval of public agencies to consider potential effects on Tribal Cultural Resources (TCR; PRC § 5024.1). To identify a TCR, AB 52 mandates early tribal consultation prior to and during CEQA review for those tribes that have formally requested, in writing, notification on projects subject to AB 52 (i.e., projects that have published Notices of Preparation for EIRs or NOIs to adopt Negative Declarations or Mitigated Negative Declarations since July 1, 2015). AB 52 established the category of TCRs for which only tribes are experts; these resources may not necessarily be visible or archaeological but could be religious or spiritual in nature. Significant impacts to a TCR are considered significant effects on the environment.

#### 4.18.3.1 Native American Consultation

An informal Native American contact program was initiated by an email to the NAHC on June 3, 2019, requesting a search of the Sacred Lands Files and a list of individuals who might have information regarding cultural resources within the project site. The NAHC responded on June 7, 2019 and reported that there were no results from the Sacred Lands Files search. The NAHC included a list of individuals, all of whom were mailed contact letters on June 10, 2019. No replies to these letters were received. Copies of Native American correspondence may be found in **Appendix I**.

Formal consultation under the provisions of AB 52 is the goal of the City (the CEQA Lead Agency). Where a project may have a significant impact on a TCR, the Lead Agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the Lead Agency. At the time of the preparation of this IS, no written requests for notification of projects from any tribe has been received by the City except for in Coyote Valley and Downtown. Due to the distance of the project site from Coyote Valley and Downtown, the Fuel Station Project would not have a significant impact on TCRs.

#### 4.18.4 IMPACTS EVALUATION

**Ai-A-ii. Less-Than-Significant Impact with Mitigation Incorporated:** As discussed in **Section 4.5**, neither the record search nor a field survey uncovered evidence of archaeological sites within the project area; likewise, a search request sent to the NAHC did not result in the identification of Native American sites.

The Fuel Station Project would require some ground disturbance. However, the project site is located on heavily disturbed and previously developed property. In the unlikely event that unanticipated discoveries are made during construction, the City would conduct AB 52 consultation with appropriate Native American groups in order to determine whether the find constitutes a TCR. If a TCR is identified, it would be eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC § 5020.1 (k).

#### 4.18.5 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on TCRs, with mitigation incorporated.

## 4.19 UTILITIES AND SERVICE SYSTEMS

### 4.19.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
16. UTILITIES AND SERVICE SYSTEMS. Would the Fuel Station Project:					
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			X		1, 2, 3
b) Have sufficient water supplies available to serve the Fuel Station Project and reasonably foreseeable future development during normal, dry, and multiple dry years?			X		1
c) Result in a determination by the wastewater treatment provider which serves or may serve the Fuel Station Project that it has adequate capacity to serve the projected demand in addition to the provider's existing commitments?			X		1, 2, 3
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?			X		1
e) Comply with federal, State, and local management reduction statutes and regulations related to solid waste?				X	1

### 4.19.2 SETTING

Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: Treatment and disposal provided by the San José – Santa Clara Regional Wastewater Facility; sanitary sewer lines maintained by the City of San José. There is an existing 8” VCP sanitary main along Cottle Road frontage and an existing 30” VCP sanitary main along the Santa Teresa Boulevard frontage that serve the project site.
- Water Service: San José Water Company
- Storm Drainage: City of San José. There is a 36” VCP storm drain main along the Cottle Road project frontage and a 54 “storm drain main along the Santa Teresa Boulevard frontage that serve the project site.
- Solid Waste: Republic Services
- Natural Gas & Electricity: Pacific Gas and Electric Company

### 4.19.3 IMPACTS EVALUATION

- A. **Less-Than-Significant Impact:** The project site is currently being used as a fuel station, convenience store, and automotive care center. The Fuel Station Project would use the existing utility facilities and would not require new or expanded utility facilities.
- B. **Less-Than-Significant Impact:** The Fuel Station Project would be a redevelopment of an existing commercial fuel station and convenience store site. The project site would accommodate approximately 5 employees and contain 15 parking spots. Accordingly, the redevelopment of the project site would not be expected to substantially increase water or wastewater demand, nor would it require or result in the construction of new water or wastewater treatment facilities or any expansion of existing facilities.
- C. **Less-Than-Significant Impact:** Construction activities would be limited to the removal of current structures and underground fuel tanks and the construction of an approximately 3,000 sf convenience store, a fuel canopy with four fuel dispensers, and two underground fuel tanks on a 0.47-acre site. The Fuel Station Project would result in a new decrease in the existing impervious surfaces on the project site (2.96 percent). Therefore, it is not anticipated that the Fuel Station Project would exceed the capacity of existing or planned stormwater drainage systems.
- D. **Less-Than-Significant Impact:** The Fuel Station Project would be a redevelopment of the current commercial use; accordingly, the solid waste generation would be similar. Therefore, the solid waste would not exceed the capacity of the local infrastructure.
- E. **No Impact:** The Fuel Station Project would comply with all federal, State, and local statutes and regulations related to solid waste.

### 4.19.4 CONCLUSION

The Fuel Station Project would have a less-than-significant impact on utilities and service systems.



## 4.20 WILDFIRE

### 4.20.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
16. WILDFIRE. Would the Fuel Station Project:					
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?				X	1, 23
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?				X	1, 23
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?				X	1, 23
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?				X	1, 23

### 4.20.2 SETTING

The CALFire Fire Hazard Severity Zones Map was developed to guide construction standards for building permits, the use of natural hazard disclosure at time of sale, to guide defensible space clearance around buildings, set property development standards, and for considerations of fire hazard in City and County general plans. The project area is not located within a ‘Very High Fire Hazard Severity Zone’ within the Local Responsibility Area hazard zone (CALFire, 2012).

### 4.20.3 IMPACTS EVALUATION

**A-D. No Impact:** According to the CALFire Fire Hazard Severity Zones Map, the project area represents a very low threat from wildland fires because it is not located within or immediately adjacent to a Very High Fire Hazard Severity Zone. The project site is located approximately 1.5 miles north of the closest High Fire Hazard Severity Zone and approximately 6 miles northeast of the closest Very High Fire Hazard Severity Zone. Accordingly, construction of the Fuel Station Project would not substantially impair an adopted emergency response or evacuation plan. Due to the proximity of the project site from the High Fire Hazard Severity Zone, it does not appear that it would exacerbate wildfire risks; it does not require installation or maintenance of associated infrastructure that could exacerbate fire risks; and it would not expose people or structures to significant risks from downstream flooding, landslides, slope instability, or drainage changes. Therefore, no significant impacts from wildfires are anticipated with the development of the Fuel Station Project.

#### **4.20.4 CONCLUSION**

The Fuel Station Project would have no impact on wildfire risk.

## 4.21 MANDATORY FINDINGS OF SIGNIFICANCE

### 4.21.1 THRESHOLDS PER CEQA CHECKLIST

Environmental Impacts	Potentially Significant Issues	Less Than Significant with Mitigation Incorporated	Less-Than-Significant Impact	No Impact	Checklist Source(s)
17. MANDATORY FINDINGS OF SIGNIFICANCE. Does the Fuel Station Project:					
a) Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?		X			1-25
b) Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)			X		1-25
c) Have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?		X			1-25

### 4.21.2 SETTING

The Fuel Station Project would consist of the demolition of an existing fuel station and convenience store and construction of an approximately 3,000-sf convenience store, a fuel canopy with four fuel dispensers, and two new underground fuel tanks on an approximately 0.47-gross acre site. New signage is proposed as well as landscaping, to include the removal of 14 trees and inclusion of planters and pervious areas to be used as bioretention areas. The proposed impacts are minimal to the community and the environment and the completed analysis above determines that the Fuel Station Project would have a less-than-significant impact on the environment.

#### 4.21.2.1 Explanation

- A. Less-Than-Significant Impact with Mitigation Incorporated:** Based on the analysis presented in this IS, the Fuel Station Project would not contribute significantly to achieving short-term goals to the disadvantage of long-term environmental goals. The Fuel Station Project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. The Fuel Station Project could potentially have significant environmental effects with respect to migratory birds. Implementation of **MM BIO-1** would protect active bird nests that could occur in the disturbance area. Therefore, protected bird species would not be

threatened, and this impact would be less than significant with implementation of **MM BIO-1**.

- B. Less-Than-Significant Impact:** Based on the analysis presented in this IS, the Fuel Station Project would not significantly contribute to cumulative impact since no development is proposed in the immediate project area. The project would not impact agricultural, forestry, mineral, population, housing, or recreational resources. Therefore, the project would not contribute to cumulative impacts to these resources. There are no planned or proposed developments in the immediate project site vicinity that could contribute to cumulative aesthetic, traffic, and noise and vibration impacts. The project's geology and soils, hazardous materials, hydrology and water quality, and noise impacts are specific to the project site and would not contribute to cumulative impacts elsewhere. The project's construction would emit criteria air pollutants and GHG emissions and contribute to the overall regional and global emissions of such pollutants. By its nature, air pollution and GHG emissions are commonly a cumulative impact. The project-level air quality thresholds identified by BAAQMD are the basis for determining whether a project's individual impact is cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. The project would have a less than significant impact on air quality and therefore the Fuel Station Project would have a less than significant cumulative impact on air quality overall. Overall, since the project will not conflict with any local or regional plans there is no expectation that there will be cumulative impacts.
- C. Less-Than-Significant Impact with Mitigation Incorporated:** Based on the analysis presented in this IS, the Fuel Station Project would not result in environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly. **MMs HAZ-1.1** and **HAZ-1.2** (discussed in **Section 4.9**) and the standard permit conditions outlined in the previous sections would ensure the Fuel Station Project would not result in environmental effects that would cause adverse effects on human beings.

#### **4.21.3 CONCLUSION**

The Fuel Station Project would have a less-than-significant impact related to the CEQA mandatory findings of significance.

## 4.22 CHECKLIST SOURCES

1. Professional judgment and expertise of the environmental specialists preparing this assessment, based upon a review of the site and surrounding conditions, as well as a review of the project plans.
2. City of San José. Envision San José 2040 General Plan.
3. City of San José. *Municipal Code*.
4. California Department of Conservation. Santa Clara County Important Farmland 2010 Map. 2011.
5. California Department of Conservation, Division of Land Resource Protection. *Santa Clara County Williamson Act FY 2014*.
6. Air Quality Analysis.
7. Bay Area Quality Management District. *Bay Area 2010 Clean Air Plan*. September 15, 2010.
8. Bay Area Quality Management District. California Environmental Quality Act Air Quality Guidelines. May 2011.
9. Evaluation of Project Conformance with the City of San José Greenhouse Gas Reduction Strategy.
10. Santa Clara Valley Habitat Agency. *Final Santa Clara Valley Habitat Plan*. August 2012.
11. City of San José. Climate Action Plan Climate Smart San José.
12. California Energy Commission. Renewables Portfolio Standard.
13. City of San José. Historic Resources Inventory. September 23, 2014.
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## **6.0 LEAD AGENCY AND CONSULTANTS**

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