INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION

Santa Teresa

Commercial Building Project

Prepared for:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

City of San José
200 East Santa Clara Street
San José, CA 95113

April 30, 2020

PROPOSED MITIGATED NEGATIVE DECLARATION

PROJECT: SANTA TERESA COMMERCIAL BUILDING PROJECT INITIAL STUDY

LEAD AGENCY: CITY OF SAN JOSÉ

Under CEQA, the lead agency is the public agency with primary responsibility over approval of the project. The City of San José is the CEQA lead agency because it is responsible for implementation and operation of the Santa Teresa Commercial Building project.

PROJECT DESCRIPTION SUMMARY

The project would result in construction of an approximately 7,116 square foot single-story multi-tenant commercial building on the southwest corner of the approximately 6.25 acre project site. The project's overall development footprint encompasses approximately 0.41 acres of the larger Santa Teresa Village shopping center along Santa Teresa Boulevard. The remaining area would continue to serve as a paved parking lot for the existing shopping center. The commercial building would be divided into four individual spaces ranging in size from approximately 1,558 square feet to approximately 1,715 square feet. The individual spaces would accommodate a mix of uses including restaurant and medical office consistent with the CN Zoning District. The exterior of the building includes design elements that are visually consistent with the existing shopping center, including an exterior paint palette in a variety of warm tones and ornamental landscaping. Building height would not exceed 19 feet. The project also includes a trash enclosure, located on the eastern boundary of the proposed building, with concrete walls and a painted steel gate.

FINDINGS

An Initial Study has been prepared to assess the project's potential effects on the environment and the significance of those effects. Based on the Initial Study, it has been determined that the project would not have any significant effects on the environment once mitigation measures are implemented. The conclusion is supported by the following findings:

1. The project would have no impact related to agriculture and forestry resources, mineral resources, and recreation.
2. The project would have a less-than-significant impact on aesthetics, air quality, cultural resources, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, land use and planning, noise, population and housing, public services, tribal cultural resources, utilities and service systems, and wildfire.
3. Mitigation is required to reduce potentially significant impacts related to biological resources, hazards and hazardous materials, and transportation to less-than-significant levels.

BIOLOGICAL RESOURCES

Mitigation Measure BIO-1: Protection of Nesting Birds

Construction shall be scheduled between September 1st and January 31st (inclusive) to avoid the nesting season. If this is not possible, pre-construction surveys for nesting raptors and other migratory breeding birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation onsite and within 250

feet of the site. Between February 1st and April 30th (inclusive) pre-construction surveys shall be conducted no more than 14 days before the initiation of construction activities or tree relocation or removal. Between May 1st and August 31st (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days before the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for nests.

If an active nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged.

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

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow

Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with CDFW. The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

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

Significance after Mitigation

Implementation of Mitigation Measure BIO-1 would reduce impacts associated with nesting habitat for bird species protected by the MBTA to a less than significant level by requiring construction to be scheduled outside of the nesting season and preparation of pre-construction surveys for nesting raptors and other migratory breeding birds. Therefore, with implementation of Mitigation Measure BIO-1 and compliance with General Plan policies, this impact would be **less-than-significant**.

HAZARDS AND HAZARDOUS MATERIALS

Mitigation Measure HAZ-1a: Soil Sampling

Prior to any demolition, issuance of grading permits, or development, shallow soil samples will be taken in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The result of soil sampling and testing will be provided to the City of San José Director of Planning, Building, and Code Enforcement or Director's designee for review.

Mitigation Measure HAZ-1b: Preparation of a Site Management Plan

If contaminants are found above the regulatory environmental screening levels, a Site Management Plan (SMP) shall be prepared and implemented (as outlined below) by a qualified hazardous materials consultant and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned

development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with development activities and shall identify appropriate mitigation measures. The SMP shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review prior to issuance of any grading permits.

The SMP shall include, but is not limited to, the following:

- A detailed discussion of the site background;
- Preparation of a Health and Safety Plan (HSP);
- Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;
- On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site water disposal facility;
- Soil stockpiling protocols.

Mitigation Measure HAZ-1c: Preparation of a Health and Safety Plan

If soils are found to be contaminated, all contractors and subcontractors at the project site shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. Prior to issuance of a grading permit, the HSP shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer of the Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
- Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities; and
- Emergency procedures and responsible personnel.

Significance after Mitigation

Implementation of Mitigation Measures HAZ-1a, HAZ1-b, and HAZ-1cwould reduce the risk of accidental release of hazardous materials because soil samples would be taken to assess whether contamination is present. If present in concentrations above regulatory environmental screening levels, and SMP and HSP would be prepared and implemented to remediate the site and ensure worker safety and the health of future workers and visitors. Therefore, proposed project would result in a **less than significant impact with mitigation incorporated**.

TRANSPORTATION

Mitigation Measure TR-1

- Provide end of trip bike facilities. The project proposes to provide 10 short-term bicycle parking spaces (5 bike racks) next to the project building, which is more than the 3 required bicycle parking spaces.

- Provide commute trip reduction marketing and education for employees. This would educate and encourage employees the use of transit, shared rides, and active modes, therefore lowering the number of single occupancy vehicle trips.
- Provide a rideshare program. This would encourage employees to carpool with other employees and/or through ride-matching services, which help employees find other commuters traveling in the same direction.

Significance after Mitigation

Implementation of Mitigation Measure TR-1 would reduce the project VMT per employee by 1.24 for the Limited Service Restaurant Use, which would result in a net decrease in the total VMT. Similarly, the VMT generated by the Medical Office Use would be reduced to 12.19 VMT per employee which is below the 12.22 VMT per employee threshold of significance. In accordance with City regulations, the proposed project would be required to prepare a transportation demand management (TDM) plan (see Appendix B) to implement Mitigation Measure TR-1. Therefore, proposed project would result in a **less than significant impact with mitigation incorporated**.

Pursuant to Section 21082.1 of the California Environmental Quality Act, The City of San José has independently reviewed and analyzed the Initial Study and Mitigated Negative Declaration for the project and finds that the Initial Study and Mitigated Negative Declaration reflects the independent judgment of the City of San José. City of San José further finds that the project mitigation measures shall be implemented as stated in the Mitigated Negative Declaration.

I hereby approve this project:

_____

Meenaxi Raval AICP, Environmental Project Manager
City of San José
(to be signed upon approval of the project after the public review period is complete)

INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION

Santa Teresa Commercial Building Project

Prepared for:

City of San José
200 East Santa Clara Street
San José, CA 95113

Contact:

Meenaxi Raval
Supervising Environmental Planner
(408) 535-7895

Prepared by:

Ascent Environmental
455 Capitol Mall, Suite 300
Sacramento, CA 95814

Contact:

Claudia Garcia
Environmental Planner
(510) 603-0298

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April 30, 2020

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LIST OF ABBREVIATIONS

AB	Assembly Bill
ALUC	Airport Land Use Commission
APN	Assessor Parcel Number
ATCM	air toxic control measure
BAAQMD	Bay Area Air Quality Management District
BMP	best management plan
CAA	Clean Air Act
CAAA	Clean Air Act Amendments of 1990
CAAQS	California Ambient Air Quality Standards
CalARP	California Accidental Release Prevention
Caltrans	California Department of Transportation
CARB	California Air Resources Board
CCAA	California Clean Air Act
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CMP	Congestion Management Program
CN	Commercial Neighborhood District
CO	carbon monoxide
CO_2	carbon dioxide
CPUC	California Public Utilities Commission
dB	decibels
DOC	California Department of Conservation
DPM	diesel particulate matter
draft IS/MND	draft Initial Study/Mitigated Negative Declaration
DTSC	California Department of Toxic Substances Control
DWR	California Department of Water Resources

EAP	energy action plan
EIR	environmental impact report
EO	Executive Order
EPA	U.S. Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act of 1986
EV	electric vehicle
EVSE	EV supply equipment
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
General Plan	Envision San José 2040 General Plan
GHG	greenhouse gases
GWMP	groundwater management plan
HOV	high occupancy vehicle
ITE	Institute of Transportation Engineers
LOS	level of service
MBTA	Migratory Bird Treaty Act
mgd	million gallons per day
MLD	Most Likely Descendant
MND	mitigated negative declaration
mph	miles per hour
MT CO_2e/yr	metric ton of CO_2 equivalents per year
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCC	Neighborhood/Community Commercial
ND	negative declaration
NFIP	National Flood Insurance Program

NPDES	National Pollutant Discharge Elimination System
OEHHA	Office of Environmental Health Hazard Assessment
OPR	Governor's Office of Planning and Research
PBCE	Planning, Building and Code Enforcement
PD	Planned Development
PG&E	Pacific Gas and Electric Company
ppm	parts per million
PRC	Public Resource Code
RAP	Removal Action Plan
RWF	Regional Wastewater Facility
RWQCB	regional water quality control board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SFBAAB	San Francisco Bay Area Air Basin
SGMA	Sustainable Groundwater Management Act of 2014
SIP	State implementation plan
SJFD	San José Fire Department
SJMWS	San José Municipal Water System
SJPD	San José Police Department
SJWC	San José Water Company
SMP	site management plan
SPCC	Spill Prevention, Control, and Countermeasure
SR	State Route
SWPPP	stormwater pollution prevention plan
SWRCB	State Water Resource Board
TA	Transportation Analysis
TAC	toxic air contaminant
TCM	Treatment Control Measures
TCR	tribal cultural resource
TDM	transportation demand management

USC	U.S. Code
VdB	vibration decibels
VMT	vehicle miles traveled
VTA	Valley Transportation Authority

1 INTRODUCTION

1.1 INTRODUCTION AND REGULATORY GUIDANCE

The City of San José, as the lead agency, prepared this draft Initial Study/Mitigated Negative Declaration (draft IS/MND) to evaluate potential environmental effects resulting from the Santa Teresa Commercial Building project (proposed project). Chapter 3, "Project Description," provides the detailed project information.

This document has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.). An Initial Study is prepared by a lead agency to determine if a project may have a significant effect on the environment (State CEQA Guidelines Section 15063[a]), and thus to determine the appropriate environmental document. In accordance with State CEQA Guidelines Section 15070, a "public agency shall prepare…a proposed negative declaration (ND) or mitigated negative declaration (MND)…when: (a) The Initial Study shows that there is no substantial evidence…that the project may have a significant impact on the environment, or (b) The Initial Study identifies potentially significant effects but revisions to the project plans or proposal are agreed to by the applicant and such revisions would reduce potentially significant effects to a less-than-significant level." When preparing an ND or MND, the lead agency prepares a written statement describing its reasons for concluding that the project would not have a significant effect on the environment and, therefore, does not require the preparation of an Environmental Impact Report (EIR). By contrast, an EIR is required when the project may have one or more significant environmental impacts that cannot clearly be reduced to a less-than-significant level by adoption of mitigation or by revisions to the project.

1.2 PURPOSE OF THIS DOCUMENT

As described in Chapter 4, "Environmental Checklist," the project would not result in any significant environmental impacts that cannot clearly be reduced to less than significant level. Therefore, an IS/MND is the appropriate document for compliance with the requirements of CEQA. This draft IS/MND conforms to these requirements and to the content requirements of State CEQA Guidelines Section 15071.

Under CEQA, the lead agency is the public agency with primary responsibility over approval of the project. The City of San José is the CEQA leady agency because they are responsible for approval of the IS/MND and issuing permit approvals for the project. This draft IS/MND will be circulated for a 30-day public review period, from, April 30, 2020 to May 30 , 2020. Comments on this draft IS/MND must be received by 5:00 PM on May 29, 2020. Comments can be emailed to meenaxi.raval@sanjoseca.gov or sent to the following address:

Meenaxi Raval, AICP
Supervising Environmental Planner
City of San José
Environmental Planning
200 East Santa Clara Street
San José, CA 95113

Following receipt of comments from the public and reviewing agencies, the City of San José may (1) adopt the MND and approve the project; or (2) undertake additional environmental studies; or (3) abandon the project.

1.3 SUMMARY OF FINDINGS

Chapter 4, "Environmental Checklist," contains the analysis and discussion of potential environmental impacts of the project. The Environmental Checklist for this draft IS/MND includes the checklist questions from Appendix G of the State CEQA Guidelines. The analysis of Chapter 4 demonstrates that the project would have either no impact or a less-than-significant impact for the following environmental topics:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Utilities and Service Systems
- Wildfire

Chapter 4 finds there are potentially significant impacts to the following environmental topics:

- Biological Resources,
- Hazards and Hazardous Materials
- Transportation, and
- Tribal Cultural Resources.

With the included mitigation measures, these impacts would be clearly reduced to a less-than-significant level.

1.4 DOCUMENT ORGANIZATION

This draft IS/MND is organized as follows:

Chapter 1, "Introduction": provides an introduction to the environmental review process. It describes the purpose and organization of this document as well as presents a summary of findings.

Chapter 2, "Project Information": provides project details including location, land use designation, zoning district, and surrounding land uses.

Chapter 3, "Project Description": describes the purpose of and need for the proposed project, identifies project objectives, and provides a detailed description of the project.

Chapter 4, "Environmental Checklist": includes the analysis of environmental issues identified in the CEQA Environmental Checklist and determines if project actions would result in no impact, a less-than-significant impact, a less-than-significant impact with mitigation incorporated, or a potentially significant impact. If any impacts were determined to be potentially significant, an EIR would be required. For this project, however, none of the impacts were determined to be significant after implementation of mitigation measures.

Chapter 5, "References": lists the references used in preparation of this IS/Proposed MND.

Chapter 6, "List of Preparers": identifies report preparers.

2 PROJECT INFORMATION

PROJECT INFORMATION

1.	Project Title:	Santa Teresa Commercial Project
2.	Lead Agency Name and Address:	City of San José Planning, Building, and Code Enforcement 200 East Santa Clara Street San José, CA 95113
3.	Contact Person and Phone Number:	Environmental Project Manager: Meenaxi Raval (408) 535-7895, meenaxi.raval@sanjoseca.gov
4.	Project Proponent Name and Address:	Bergman KPRS National 2850 Saturn Street Brea, CA 92821
5.	Project Location:	The approximately 0.41-acre portion of the 6.25-parcel located at the southeast corner of Santa Teresa Boulevard and Bernal Road within an existing 13.83-acre shopping center is the site for the proposed project.
6.	General Plan Designation:	Neighborhood/Community Commercial (NCC), in Santa Teresa BI/Bernal Urban Village
7.	Zoning:	R-1-8 (PD) Planned Development Zoning District. File No. PDC66-035 allows for CN Commercial Neighborhood District (CN) uses.
8.	Habitat Conservation Plan Designations:	Land Cover: Urban-Suburban Land Cover Fee Zone: Urban Areas (No Land Cover Fee) Land Use Category: Urban Development (1 dwelling unit/2.5 or fewer acres)
10.	Surrounding Land Uses:	North: Neighborhood/Community Commercial South: Residential Neighborhood East: Residential Neighborhood West: Mixed-use neighborhood and Open Space, Parklands and Habitat

11. Project Description Summary:

The project would result in construction of a new approximately 7,116 square foot single-story multi-tenant commercial building on a 0.41-acre portion of a 6.25-acre parcel (APN 706-28-022) within an existing shopping center in southeast San José. The building is planned to accommodate a multi-tenant restaurant or medical office uses. (See Chapter 3, "Project Description," for details.)

12. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?

At the time of preparation of this Initial Study, no California Native American tribes that are or have been traditionally culturally affiliated with the project vicinity have requested notification from the City of San José.

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3 PROJECT DESCRIPTION

3.1 PROJECT LOCATION AND SETTING

3.1.1 Location and Physical Setting

The project site is located within the city limits of San José, in Santa Clara County. San José is bordered by the cities of Sunnyvale, Campbell, Santa Clara, Milpitas, Saratoga, Morgan Hill, Los Gatos, and Cupertino (Figure 3-1). The proposed project is located on the southeast corner of Santa Teresa Boulevard and Bernal Road on an approximately 6.25-acre surface parking lot associated with the existing 13.83-acre Santa Teresa Village shopping center (project area). The Santa Teresa Shopping Center provides approximately 124,306 square feet of commercial space anchored by a grocery store and is composed of thirteen parcels assigned the following Assessor Parcel Numbers (APNs):

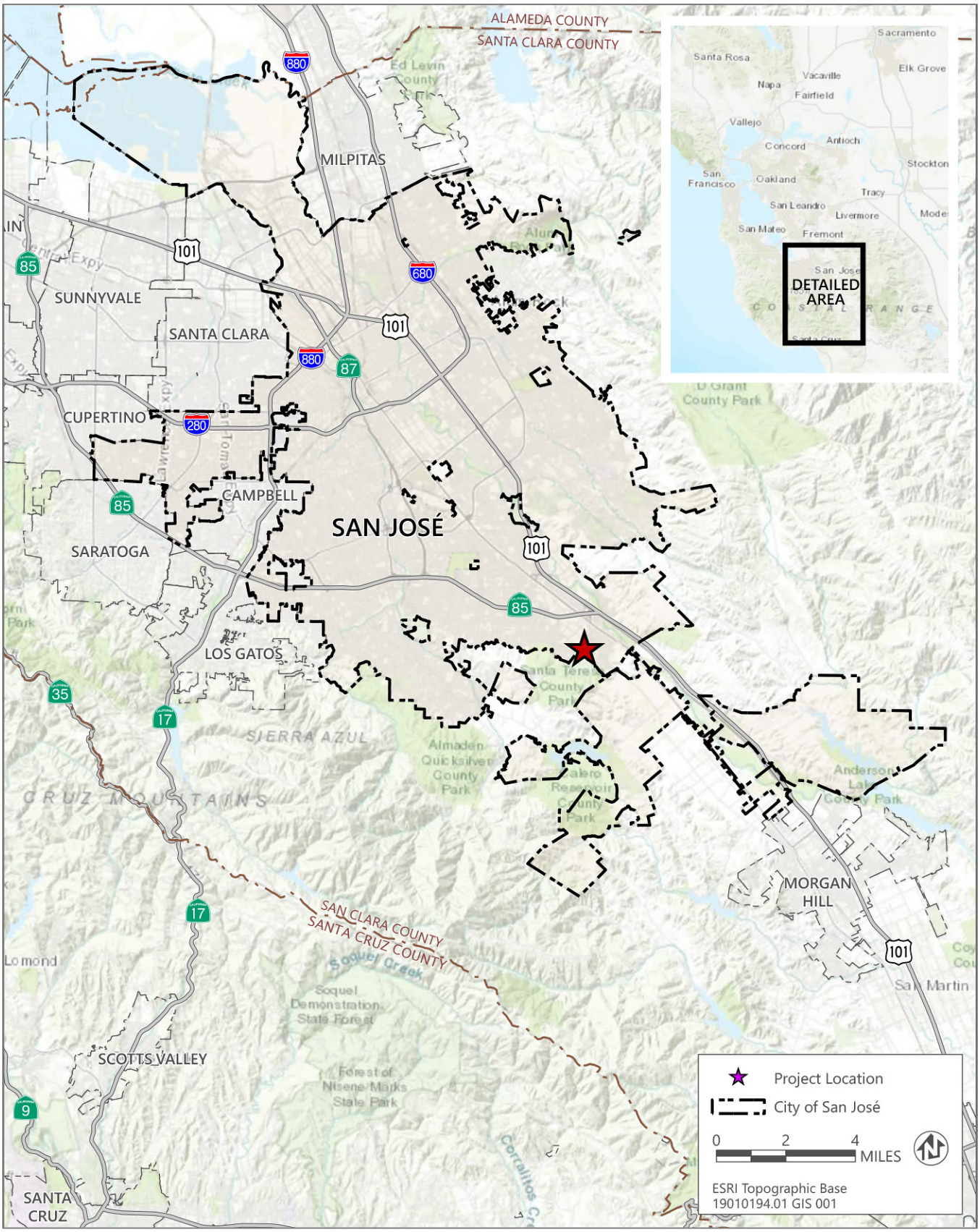
- 706-28-006
- 706-28-015
- 706-28-018
- 706-28-019
- 706-28-020
- 706-28-022
- 706-28-023
- 706-28-024
- 706-28-025
- 706-28-027
- 706-28-029
- 706-28-030
- 706-28-031

Development activities would only occur on the surface parking lot located on the parcel assigned APN 706-28-022 (project site). Development located adjacent to the shopping center includes commercial uses to the northwest; a church, single- and multi-family residential to the northeast; Los Paseos Park to the southeast; single-family residential to the east; multi-family residential to the south; and single-family residential to the west (Figure 3-2).

3.1.2 Land Use Designations and Zoning

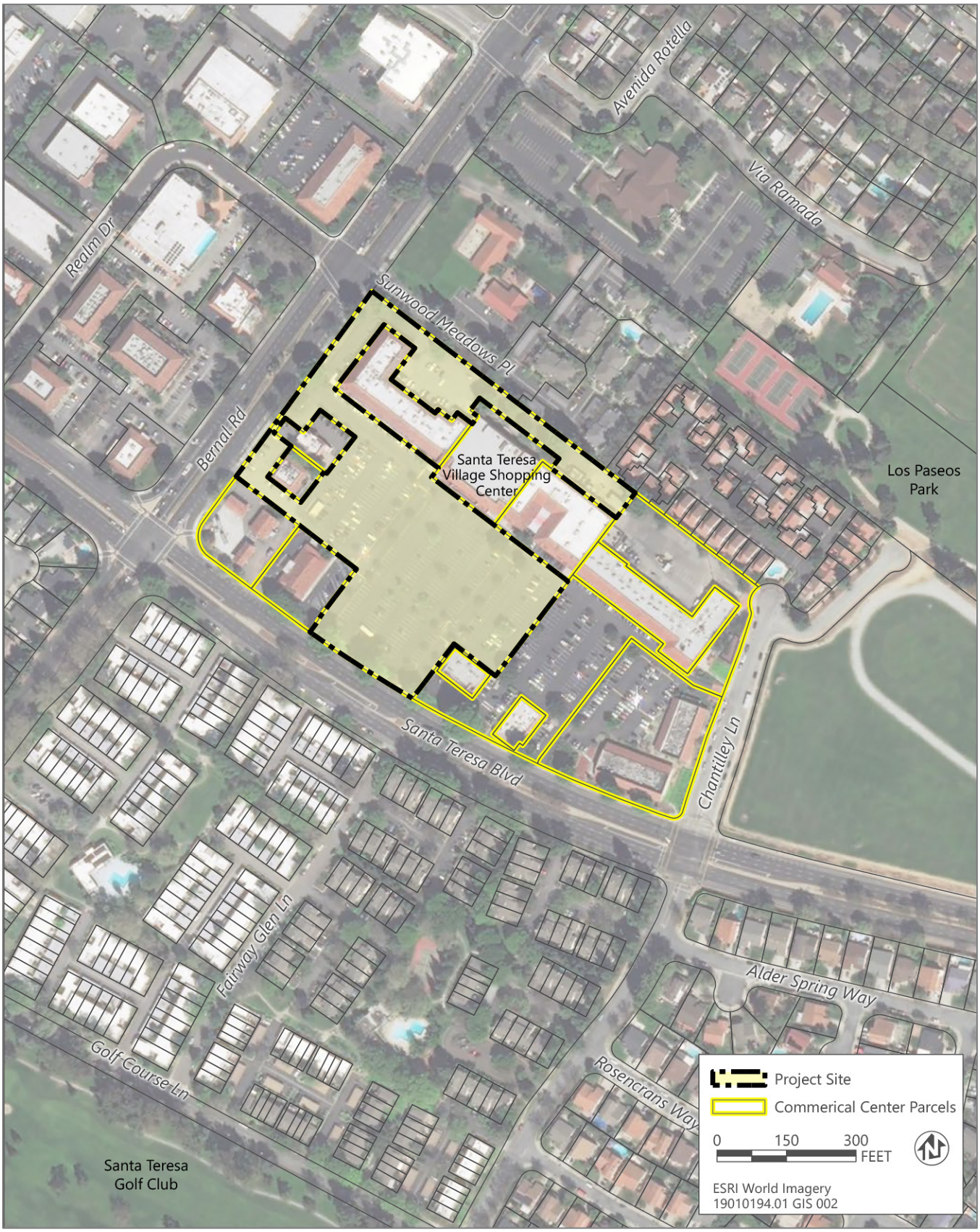
The project site is currently designated Neighborhood/Community Commercial (NCC) by the Envision San José 2040 General Plan (General Plan) (Figure 3-4). This designation supports a broad range of commercial uses, including commercial uses that serve the communities in neighboring areas, such as neighborhood-serving retail and services and commercial/professional office uses. Neighborhood / Community Commercial uses typically provide services and amenities for the nearby community. General office uses, hospitals, and private community gathering facilities, including buildings used for religious activities, private clubs, performance venue, and sports activities, are also allowed in this designation. The project site is also within the Santa Teresa Boulevard/Bernal Road Urban Village, a planned growth area, as shown in the City's General Plan Planned Growth Areas Diagram (City of San José 2011).

The project site is located within the R-1-8 (PD) Planned Development Zoning District. The Planned Development (PD) District allows for the construction of planned development with an effective development permit. Any use or combination of uses provided in the effective development permit are allowed in accordance with and in strict compliance with all terms, provisions and conditions of the permit. Unless and until a planned development permit has been issued and is effective, property in the PD District may be used only as if it were in its base district alone, which is R-1-8 for the project site which allows for single family residential development. However, a previously approved plan development permit, File No. PDC66-035, allows for Commercial Neighborhood District (CN) uses on the project site. The CN Zoning District is a district intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments.



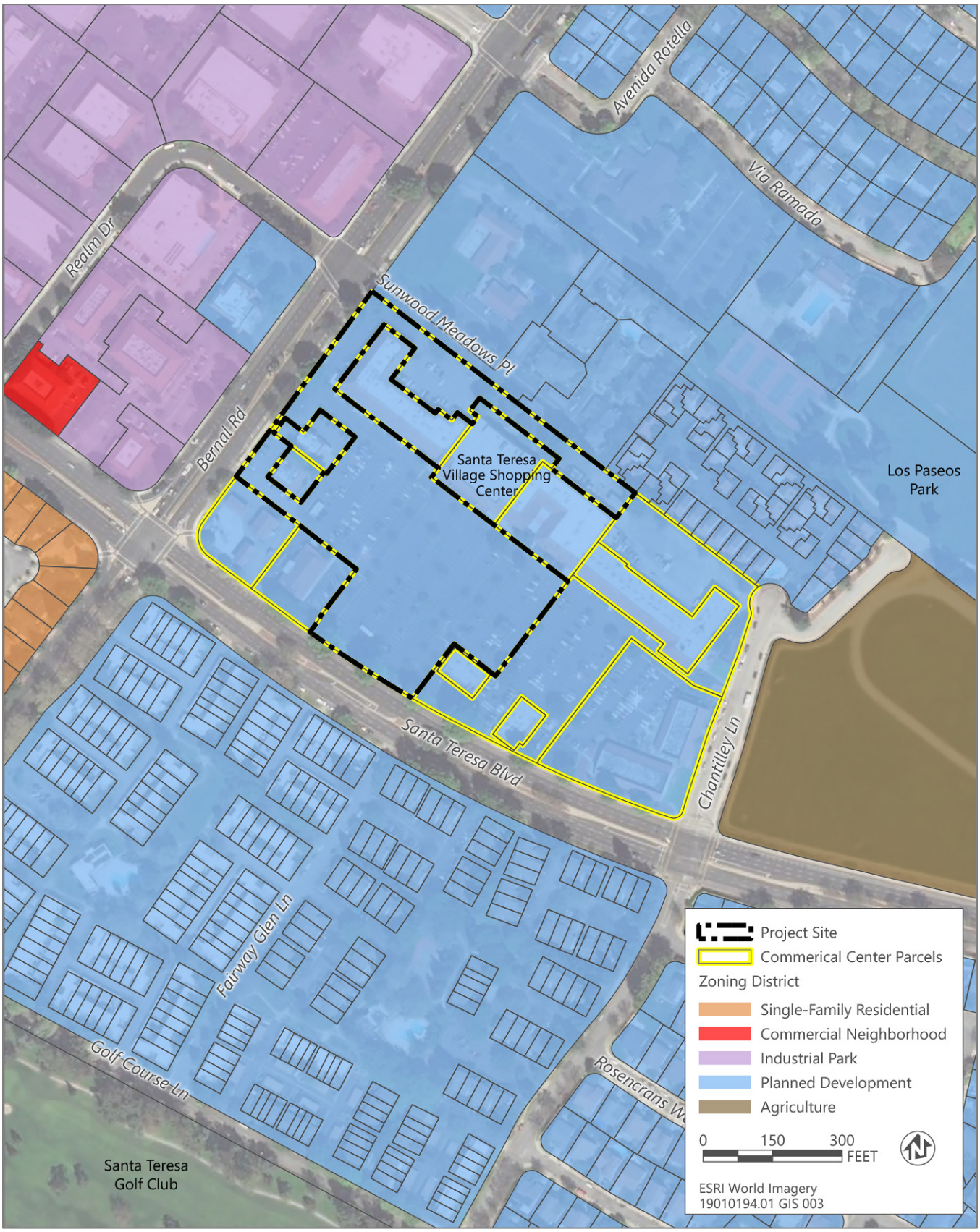
Source: data downloaded from Santa Clara County in 2017

Figure 3-1 Project Region



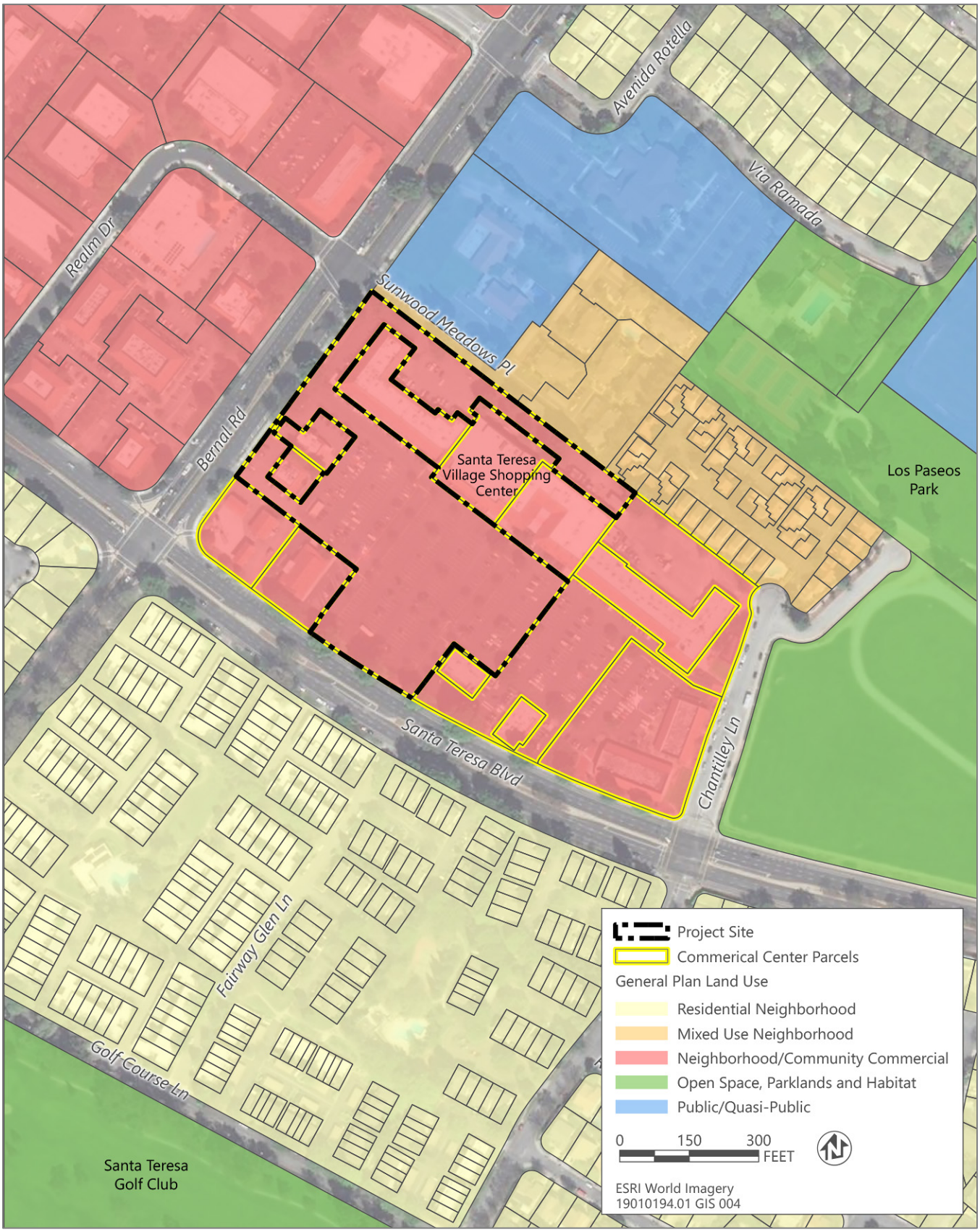
Source: data downloaded from City of San José in 2019

Figure 3-2 Project Area



Source: data downloaded from City of San José in 2019

Figure 3-3 Zoning District



Source: data downloaded from City of San José in 2019

Figure 3-4 General Plan Land Use

3.2 PROJECT OBJECTIVES

The City of San José in collaboration with the project applicant, identified the following objectives to guide development of the proposed project:

- Construct a commercial building that can accommodate compatible commercial uses within an existing shopping center.
- Meet commercial retail (e.g., medical office space and restaurants) service demands within the local community.
- Provide employment opportunities within the CN Commercial Neighborhood District Zoning District.

3.3 PROJECT COMPONENTS

The proposed project would result in construction of an approximately 7,116-square-foot single-story multi-tenant commercial building on the southwest corner of the approximately 6.25-acre project site. The project's overall development footprint encompasses approximately 0.41 acres of the larger Santa Teresa Village shopping center along Santa Teresa Boulevard. The remaining area would continue to serve as a paved parking lot for the existing shopping center (Figure 3-5). The commercial building would be divided into four individual spaces ranging in size from approximately 1,558 square feet to approximately 1,715 square feet (Figure 3-6). The individual spaces would accommodate a mix of uses including restaurant and medical office consistent with the CN Zoning District. The exterior of the building includes design elements that are visually consistent with the existing shopping center, including an exterior paint palette in a variety of warm tones and ornamental landscaping. Building height would not exceed 19 feet (Figure 3-7). The project also includes a trash enclosure, located on the eastern boundary of the proposed building, with concrete walls and a painted steel gate.

PARKING AND ACCESS

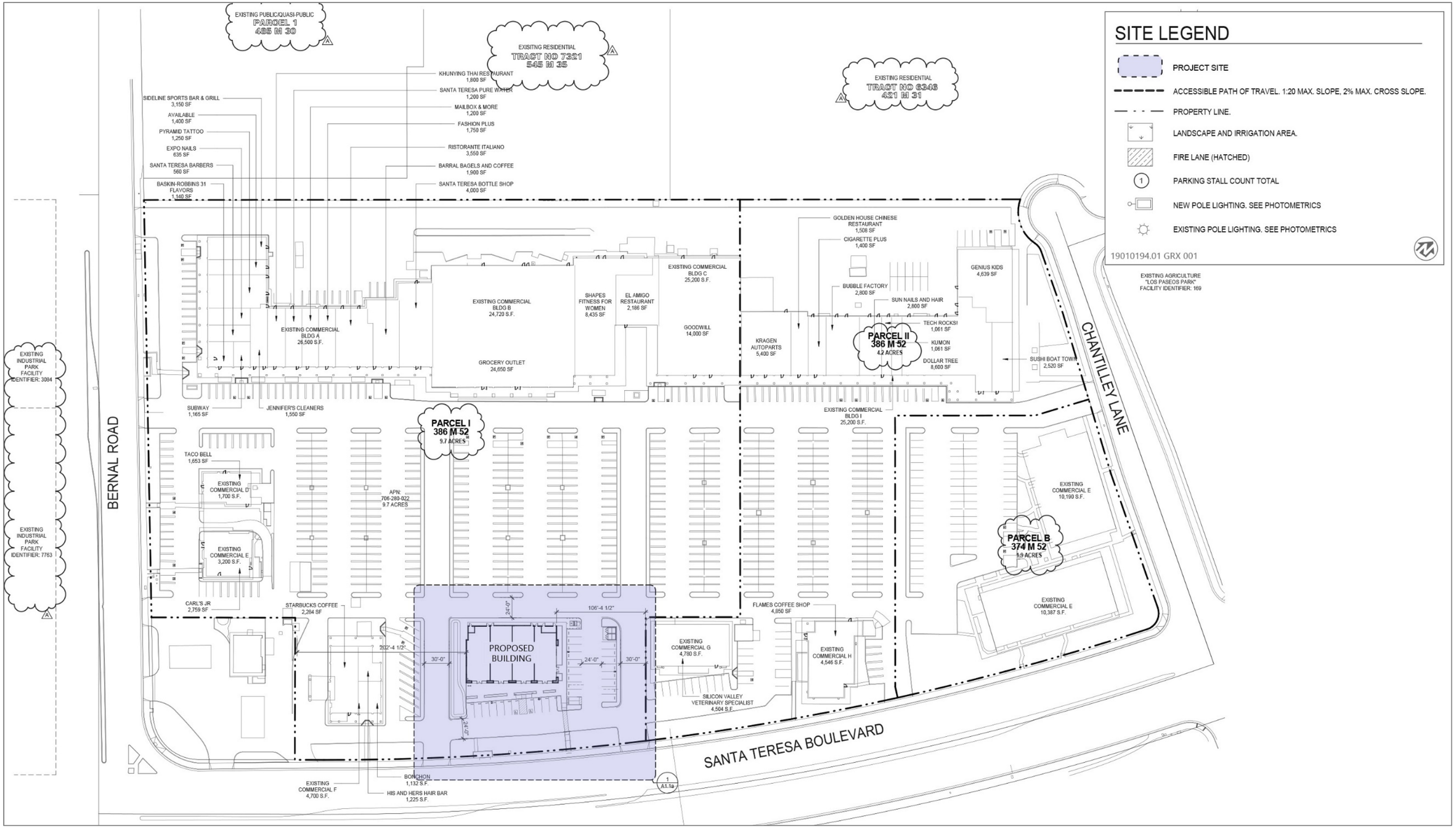
The project site is completely paved and is part of the Santa Teresa Village parking lot, which includes a total of 716 existing vehicle parking spaces. The proposed project would remove a total of 66 vehicle parking spaces. Consistent with the City of San José Municipal Code Section 20.90.100, the project proposes to construct 28 new parking spaces, including two handicap accessible parking spaces, two motorcycle parking spaces, and bicycle racks that can accommodate up to 10 bicycles. A total of 678 vehicle parking spaces would remain on the Santa Teresa Village parking lot after project completion, including the project's parking spaces. Access to the project site is currently provided via multiple driveways located on Bernal Road, Santa Teresa Boulevard, and Chantilley Lane. Direct access to the proposed building would be provided via the existing driveway on Santa Teresa Boulevard.

LIGHTING

Exterior lighting for the project includes wall-mounted lights along the exterior of the commercial building and pole-mounted lights within the parking area. All exterior lighting would conform to the standards identified in the City Council's Interim Lighting Policy, which requires the preparation of an Outdoor Lighting Plan as an exception to the required use of low-pressure sodium lighting on private development. The Outdoor Lighting Plan must include a luminaire schedule, photometric grid showing illumination levels, and manufactures specifications for all proposed lighting fixtures.

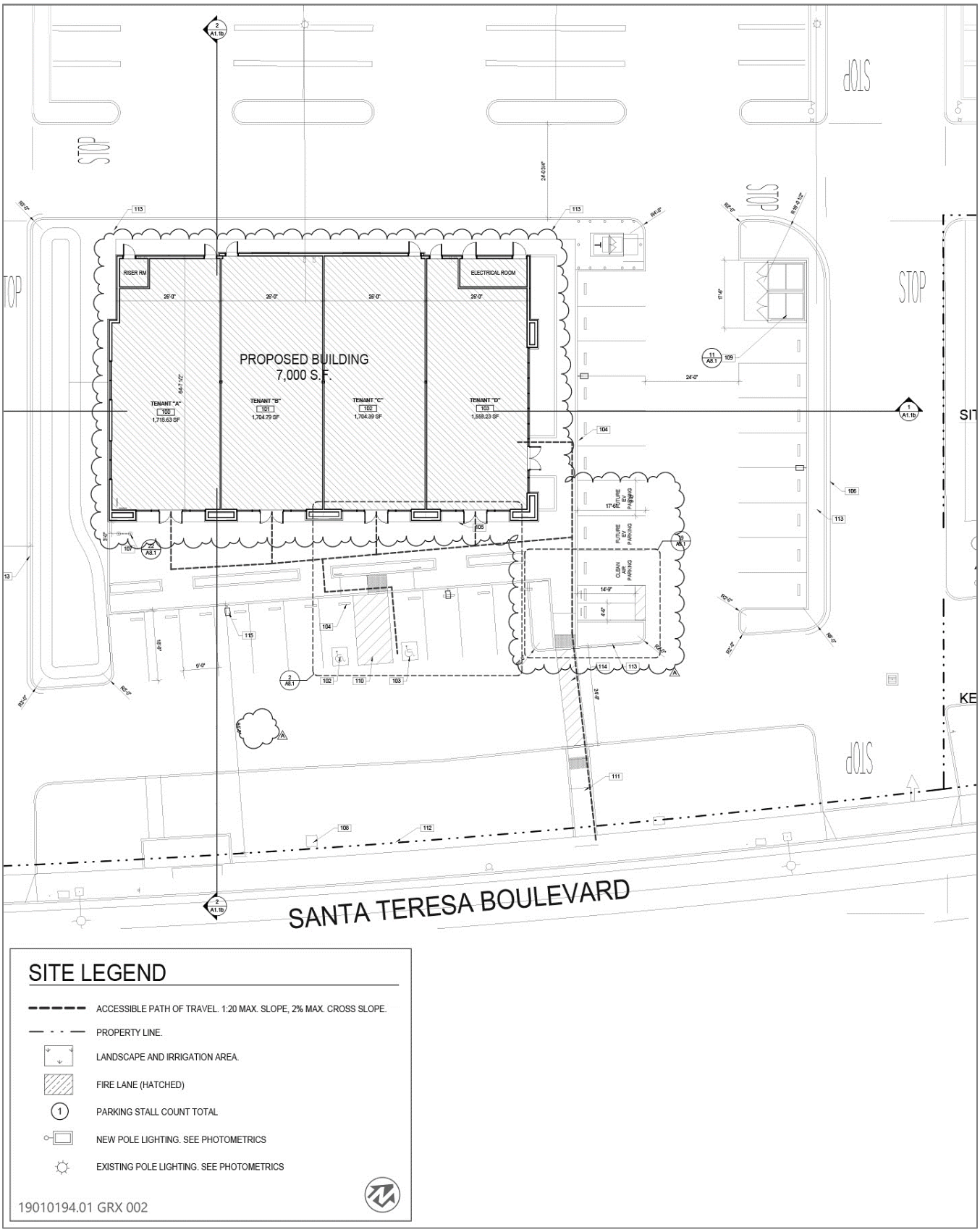
UTILITIES

The project includes the provision of services and utilities, including water, storm drainage, wastewater, and solid waste. A stormwater management plan is proposed that directs runoff to landscaped and bio-retention areas before flowing into the City's storm drainage system.



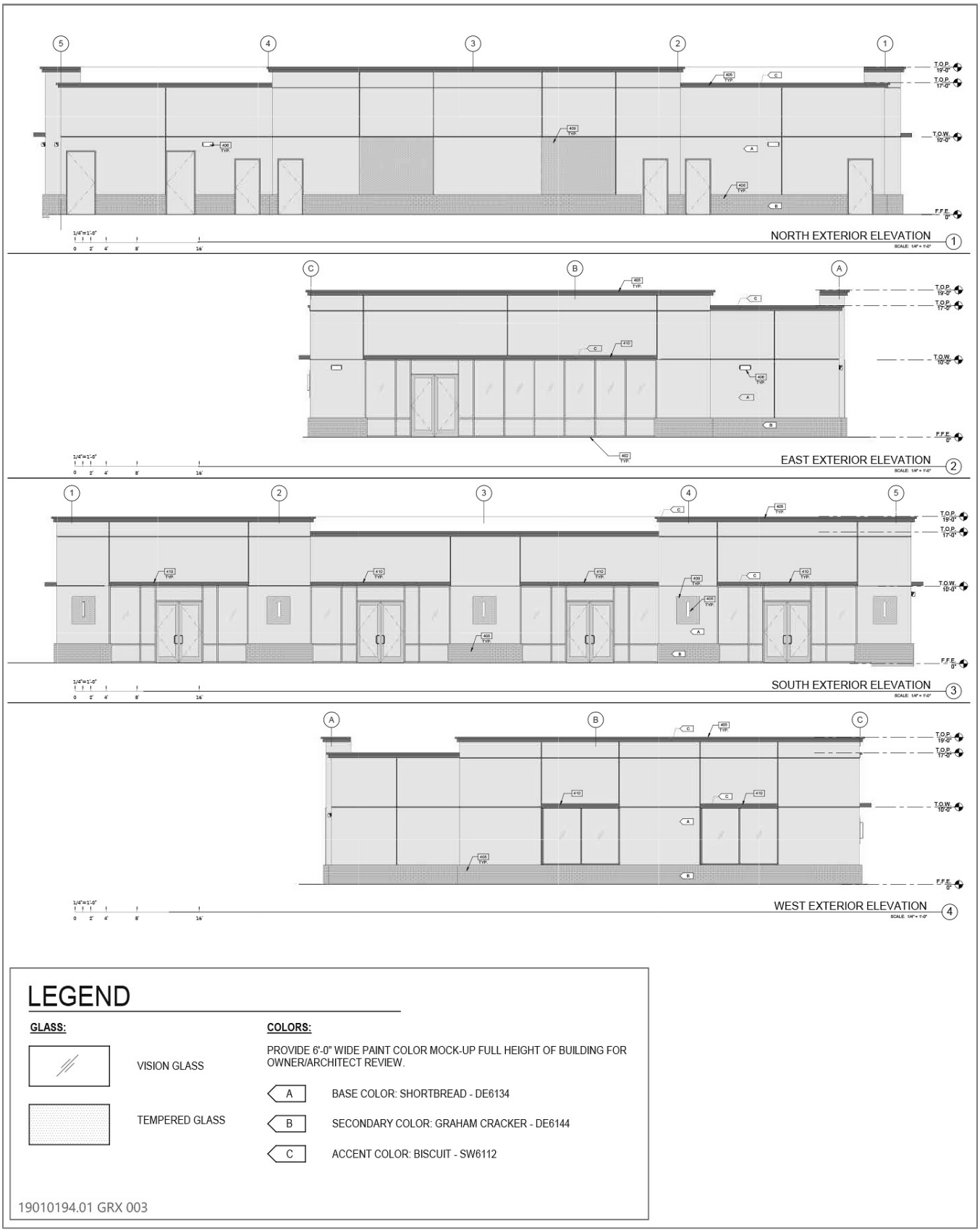
Source: data downloaded from City of San José in 2019

Figure 3-5 Overall Site Plan



Source: data downloaded from City of San José in 2019

Figure 3-6 Proposed Project Footprint



Source: data downloaded from City of San José in 2019

Figure 3-7 Proposed Project Elevation and Views

GRADING

Project construction would involve grading o and import/ export of material. Total earthwork activities for the project would move a total of 4,000 cubic yards of soil.

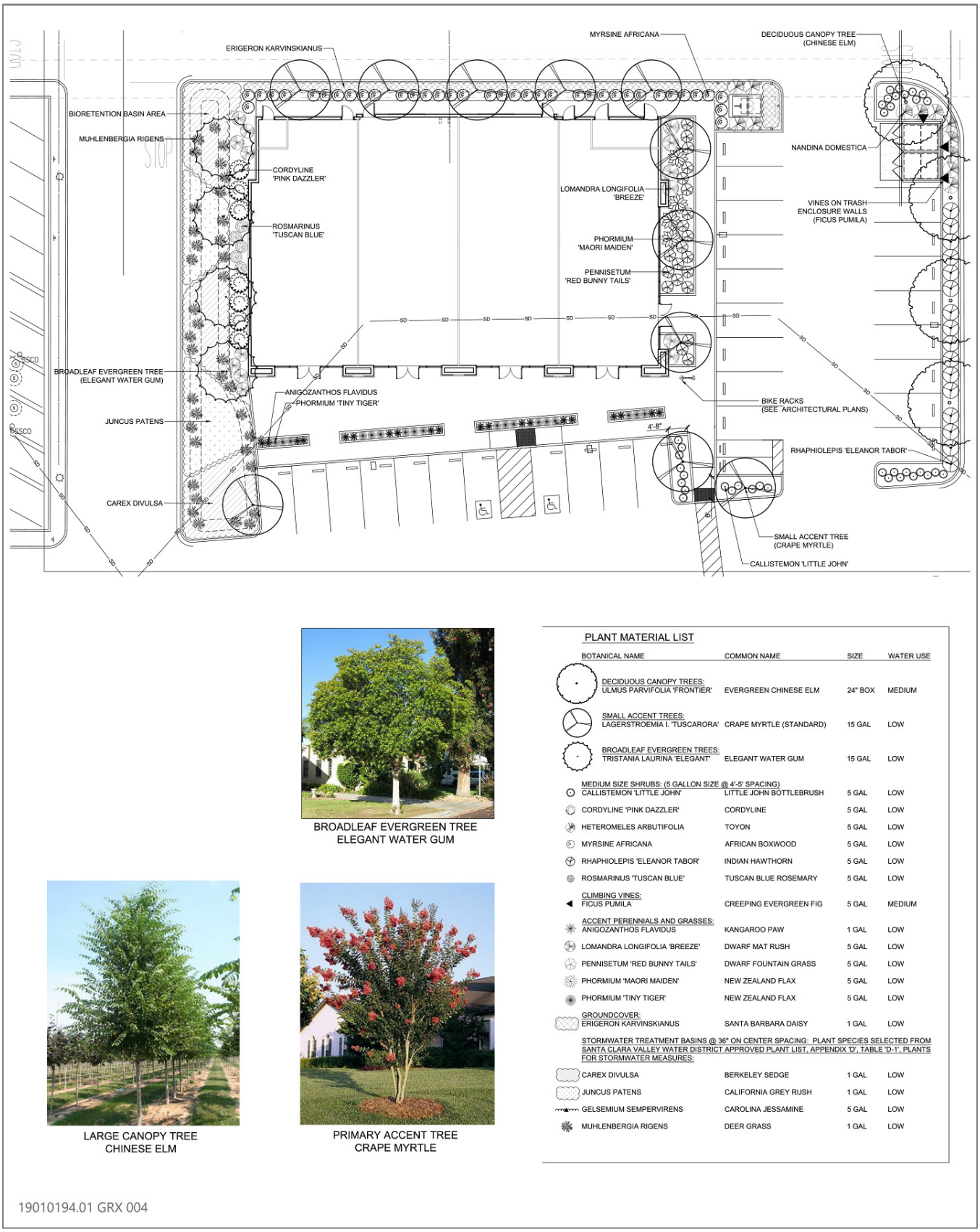
LANDSCAPING

The landscape plan identifies removal of four existing trees; 3 mature Crape Myrtles (*Lagerstroemia fauriei*) in good condition, two of which have a trunk circumference of 14 inches, and the third measures 91 inches, the fourth tree, an Australian willow (*Geijera parviflora*), is in fair condition and has a trunk circumference of 60 inches. The project would add approximately 4,177 square feet of landscaped areas along the perimeter of the site. Landscaped areas would include a mixture of deciduous canopy trees, small accent trees, broadleaf evergreen trees, medium sized shrubs, climbing vines, perennials and grasses. Native plantings include toyon (*Heteromeles arbutifolia*), California grey rush (*Juncus patens*), and Berkeley sedge (*Carex divulsa*) (Figure 3-8).

3.4 PROJECT APPROVALS

The project would require the following discretionary permit approvals from the City of San José:

- Site Development Permit
- Tree Removal Permit
- Public Works Clearances including but not limited to a Grading Permit
- Building Clearance including but not limited to Building and Occupancy Permits



Source: data downloaded from City of San José in 2019

Figure 3-8 Landscape Plan

4 ENVIRONMENTAL CHECKLIST

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages. Where checked below, the topic with a potentially significant impact will be addressed in an environmental impact report.

☐ Aesthetics	☐ Agriculture and Forest Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Energy
☐ Geology / Soils	☐ Greenhouse Gas Emissions	☐ Hazards / Hazardous Materials
☐ Hydrology / Water Quality	☐ Land Use / Planning	☐ Mineral Resources
☐ Noise	☐ Population / Housing	☐ Public Services
☐ Recreation	☐ Transportation	☐ Tribal Cultural Resources
☐ Utilities / Service Systems	☐ Wildfire	☐ Mandatory Findings of Significance
	☐ None	☒ None with Mitigation Incorporated

DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project could not have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

☒ I find that although the proposed project COULD have a significant effect on the environment, there WILL NOT be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

☐ I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

☐ I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **EIR** or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **EIR** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature Date

Meenaxi Raval, AICP Environmental Project Manager

Printed Name Title

City of San José

4.1 AESTHETICS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. Aesthetics.				
Except as provided in Public Resources Code section 21099 (where aesthetic impacts shall not be considered significant for qualifying residential, mixed-use residential, and employment centers), would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

4.1.1 Regulatory Setting

STATE

State Scenic Highways Program

The California Scenic Highways Program was created by the California Scenic Highway Law in 1963 with the purpose of preserving and protecting scenic highway corridors from any change that would diminish the aesthetic value of lands adjacent to highways. State Scenic Highways are those highways that are either officially designated by Caltrans or are eligible for designation. The statewide system of scenic highways is part of the Master Plan of State Highways Eligible for Official State Designation as Scenic Highways. Scenic highway nominations are evaluated using the following criteria:

- the proposed scenic highway is principally within an unspoiled native habitat and showcases the unique aspects of the landscape, agriculture, or man-made water features;
- existing visual intrusions do not significantly impact the scenic corridor;
- strong local support for the proposed scenic highway designation is demonstrated; and
- the length of the proposed scenic highway is not short or segmented

A highway's status changes from "eligible" to "officially designated" when the local jurisdiction adopts a Scenic Corridor Protection Program, applies to Caltrans for scenic highway approval, and receives notification from Caltrans that the highway has been designated as an official State Scenic Highway. Once a scenic highway is designated, the

responsibility lies with the local jurisdiction to regulate development within the scenic highway corridor. This applies only to areas where the local agency has land use jurisdiction.

LOCAL

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

The City Council's Outdoor Lighting Policy (4-3) promotes energy-efficient lighting on private development in the City of San José. This policy requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Additionally, all outdoor lighting fixtures, including display lighting, shall be turned off within one hour of the close of business.

Design Guidelines and Design Review Process

All new development is subject to a design review process that includes a review of architecture and site planning. Design review is based upon a series of guidelines prepared by the City's Planning Division and adopted by the City Council to assist those persons involved in the design, construction, review and approval of development in San José. These guidelines seek to provide a common understanding of the minimum design standards the City expects of all new development based on development types, and locations. The design review process is used to evaluate projects for conformance with the adopted design guidelines and other relevant policies and ordinances, and for the inclusion of appropriate environmental mitigation. Specific design guidelines adopted by the City Council include those for: Downtown/Historic, North San José, Residential, Non-residential, and Specific Elements.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to aesthetics and visual resources, and are relevant to this analysis:

- **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 rights-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-1.11:** To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
- **Policy CD-1.12**: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
- **Policy CD-1.13**: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

- Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extend feasible, avoid impacts of headlights on adjacent land uses.
- Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
- Policy CD-5.6: Design lighting locations and levels to enhance the public realm, promote safety and comfort, and create engaging public spaces. Seek to balance minimum energy use of outdoor lighting with goal of providing safe and pleasing well-lit spaces. Consider the City's outdoor lighting policies in development review processes.
- Policy VN-1.10: Promote the preservation of positive character-defining elements in neighborhoods, such as architecture; design elements like setbacks, heights, number of stories, or attached/detached garages; landscape features; street design; etc.
- Policy VN-1.12: Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods.

4.1.2 Environmental Setting

VISUAL CHARACTER AND QUALITY

The project site is located in southern San José within the existing Santa Teresa Shopping Center. The Santa Teresa Shopping Center provides 124,306 square feet of commercial space anchored by a grocery store and is comprised of several parcels. The project site is completely paved and is located on the parcel that serves as the parking lot for the shopping center. Development located adjacent to the shopping center include commercial uses to the northwest, a church and single- and multi-family residential uses to the northeast, Los Paseos Park to the southeast, and single-family residential uses to the east, multi-family residential uses to the south, and single-family residential uses to the west.

SCENIC VISTAS

Views of hillsides and prominent peaks are not visible from the project site. The City of San José is relatively flat and prominent viewpoints are limited. Exceptions include Communications Hill in south central San José, extensions of the Silver Creek Hills, and the Santa Teresa Hills. Views of the hillsides and prominent peaks bordering the City are not consistently visible from developed areas. Buildings, trees, and infrastructure (i.e., utility lines, elevated roadways) obscure most viewpoints.

SCENIC HIGHWAYS

There are no eligible or officially designated State Scenic Highways within the project area. The nearest State-designated Scenic Highway, Route 9, is located approximately 11 miles northwest of the site (Caltrans 2020). The nearest City-designated Gateways to the project site are located approximately 1 mile to the northeast of the project site where Highway 101 meets State Route (SR) 85, and 1.2 miles to the southeast where Metcalf Road meets Monterey Road. The nearest City-designated Rural Scenic Corridors include Metcalf Road located 1.2 miles southeast of the project site and the portion of Highway 101 south of Bernal Road located 1.5 miles southeast of the project site (City of San José 2016).

LIGHT AND GLARE

Light generated by the existing on-site commercial uses contributes to the ambient lighting levels in the surrounding area. On-site lighting that is currently visible from surrounding land uses includes a variety of outdoor lighting consistent with the types of commercial uses associated with the shopping center. The existing on-site lighting is primarily for safety, security, and vehicular and pedestrian movement. Existing daytime glare occurs from the light reflecting off the windows of existing on-site and cars parked in the parking lot.

4.1.3 Discussion

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

No impact. The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. The shopping center is completely developed and surrounded by existing development. Accordingly, views of hillsides and prominent peaks are not visible from the project site. Therefore, the proposed project would not adversely affect a scenic vista, and no impact would occur.

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

No impact. There are no eligible or officially designated State Scenic Highways within the project area. In addition, there are no City-designated Gateways or Rural Scenic Corridors near the project site. Therefore, the proposed project would not substantially damage scenic resources within a state scenic highway and no impact would occur.

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

Less than significant. The project site is in an urbanized area, is completely paved, and serves as the parking lot for the Santa Teresa Shopping center which provides 124,306 square feet of commercial space. The proposed project would construct an approximately 7,116 square foot single-story multi-tenant commercial building on the southwest corner of the project site.

The proposed project is consistent with the Neighborhood/Community Commercial (NCC) General Plan land use designation and CN Commercial Neighborhood District (CN) Zoning District which allow for commercial uses on the project site. In addition, enforcement of General Plan policies (listed above) and the City's design review process would avoid conflict with regulations governing scenic quality. For example, General Plan Policy CD-1.1 directs the City to require the highest standards of architectural and site design, and apply strong design controls for all development projects, including commercial development projects, for the enhancement and development of community character and for the proper transition between areas with different types of land uses. The City's design review process evaluates projects for conformance with the adopted non-residential design guidelines and other relevant policies and ordinances. Therefore, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality, and the impact would be less than significant.

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

Less than significant. The shopping center contains on-site lighting primarily for building safety, security, and vehicular and pedestrian movement. Existing daytime glare occurs from the light reflecting off the windows of existing on-site and cars parked in the parking lot.

Although the proposed project would introduce new sources of light including wall-mounted lights along the exterior of the commercial building and poll-mounted lights within the parking area, these light sources would be located in a shopping center that already includes outdoor lighting. Additionally, enforcement of General Plan policies (listed above) and City Council's Outdoor Lighting Policy (4-3) will regulate new sources of light and glare to avoid affecting

day or nighttime views in the project area. For example, Policy CD-5.6 directs the City to design lighting locations and levels to enhance the public realm, promote safety and comfort, and create engaging public spaces, and consider the City's outdoor lighting policies in development review processes. The City's Outdoor Lighting Policy (4-3) requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Therefore, the proposed project would not create new sources of substantial light and glare that would adversely affect day or nighttime views. The impact would be **less than significant.**

4.2 AGRICULTURE AND FORESTRY RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. Agriculture 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, as updated) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.				
In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

4.2.1 Regulatory Setting

STATE

California Department of Conservation Farmland Mapping and Monitoring Program

Important Farmland in California is classified and mapped according to the California Department of Conservation's (DOC) Farmland Mapping and Monitoring Program (FMMP). Authority for the FMMP comes from Government Code Section 65570(b) and Public Resources Code Section 612. Government Code Section 65570(b) requires the DOC to

collect or acquire information on the amount of land converted to or from agricultural use for every mapped county and to report this information to the Legislature. Public Resources Code Section 612 requires the DOC to prepare, update, and maintain Important Farmland Series Maps and other soils and land capability information.

The California Land Conservation Act of 1965

The California Land Conservation Act of 1965, or Williamson Act, preserves agricultural and open space lands through property tax incentives and voluntary restrictive use contracts. Private landowners voluntarily restrict their land to agricultural and compatible open-space uses under minimum 10-year rolling term contracts. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use, rather than potential market value.

Envision San José 2040 General Plan

The Envision San José General Plan contains the following polices that pertain to agricultural resources, and are relevant to this analysis:

- Policy LU-12.3: Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means:
  - Limit residential uses in agricultural areas to those which are incidental to agriculture.
  - Restrict and discourage subdivision of agricultural lands.
  - Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.
  - Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.
  - Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan.
- Policy LU-12.4: Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands.

4.2.2 Environmental Setting

AGRICULTURE

The project site consists of a paved parking lot within a commercial shopping center. The project site is located within the CN Zoning District which allows for commercial uses and does not include land under agricultural cultivation. The statewide Farmland Mapping and Monitoring Program designates the project site as Urban and Built-Up Land. There are no areas designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance within the project area (DOC 2016). There are no Williamson Act-contracted lands in the project area or near the proposed project (County of Santa Clara 2019).

FORESTRY RESOURCES

The city does not contain any woodland or forest land cover and the project area is not zoned for forest land or timberland and does not include any timberland resources (CAL FIRE 2019).

4.2.3 Discussion

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

No impact. The project site is paved and does not contain any lands designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Therefore, the proposed project would not result in the conversion of Prime Farmland, Unique Farmland, of Farmland of Statewide Importance to a non-agricultural use. **No impact** would occur.

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

No impact. The project site is paved and is located within the CN Zoning District which allows for commercial uses. In addition, there are no Williamson Act contracts in effect for land within the project area. Therefore, the proposed project would not conflict with any existing zoning for agricultural use or Williamson Act contract. **No impact** would occur.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No impact. The project site is paved and is located within the CN Zoning District which allows for commercial uses. In addition, the city does not contain any woodland or forest land cover. Therefore, the project would not conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production. **No impact** would occur.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No impact. The project site is in an urbanized area, is completely paved, and serves as the parking lot for the Santa Teresa Shopping center. In addition, there is no forest land on the project site or in close proximity to the project site. Therefore, the proposed project would not result in the loss of forest land or conversion of forest land to non-forest use. **No impact** would occur.

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

No impact. The project site and surrounding areas do not include any zoning, land use designations, or existing development related to agricultural, forest land, or timber production. The statewide Farmland Mapping and Monitoring Program designates the project site as Urban and Built-Up Land. In addition, the city does not contain any woodland or forest land cover. Therefore, the proposed project would not result in conversion of farmland to non-agricultural use of forest land to non-forest use. **No impact** would occur.

4.3 AIR QUALITY

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

4.3.1 Environmental Setting

The proposed project is in the City of San José, which is within the San Francisco Bay Area Air Basin (SFBAAB). Regional and local air quality in the SFBAAB is affected by topography, dominant airflows, location, and season. Temperatures tend to be moderate and annual rainfall is an average of 14.5 inches in San José (WRCC n.d.). In the summer, prevailing westerly winds through the Carquinez Strait mix and reduce air pollutant levels by drawing cooler marine air from the Pacific Ocean and San Pablo Bay eastward. In the winter, air pollution is transported from the Central Valley due to prevailing easterly winds (BAAQMD 2017a).

CRITERIA AIR POLLUTANTS

Concentrations of emissions from criteria air pollutants (the most prevalent air pollutants known to be harmful to human health) are used to indicate the quality of the ambient air. Criteria air pollutants include ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), respirable and fine particulate matter (PM_{10} and $PM_{2.5}$), and lead. The sources of criteria air pollutants and their respective acute and chronic health impacts are described in Table 3.3-1.

Table 4.3-1 Sources and Health Effects of Criteria Air Pollutants

Pollutant	Sources	Acute[1] Health Effects	Chronic[2] Health Effects
Ozone	secondary pollutant resulting from reaction of ROG and NO_X in presence of sunlight. ROG emissions result from incomplete combustion and evaporation of chemical solvents and fuels; NO_X results from the combustion of fuels	increased respiration and pulmonary resistance; cough, pain, shortness of breath, lung inflammation	permeability of respiratory epithelia, possibility of permanent lung impairment
Carbon monoxide (CO)	incomplete combustion of fuels; motor vehicle exhaust	headache, dizziness, fatigue, nausea, vomiting, death	permanent heart and brain damage
Nitrogen dioxide (NO_2)	combustion devices; e.g., boilers, gas turbines, and mobile and stationary reciprocating internal combustion engines	coughing, difficulty breathing, vomiting, headache, eye irritation, chemical pneumonitis or pulmonary	chronic bronchitis, decreased lung function

Pollutant	Sources	Acute[1] Health Effects	Chronic[2] Health Effects
		edema; breathing abnormalities, cough, cyanosis, chest pain, rapid heartbeat, death	
Sulfur dioxide (SO_2)	coal and oil combustion, steel mills, refineries, and pulp and paper mills	irritation of upper respiratory tract, increased asthma symptoms	insufficient evidence linking SO_2 exposure to chronic health impacts
Respirable particulate matter (PM_{10}), Fine particulate matter ($PM_{2.5}$)	fugitive dust, soot, smoke, mobile and stationary sources, construction, fires and natural windblown dust, and formation in the atmosphere by condensation and/or transformation of SO_2 and ROG	breathing and respiratory symptoms, aggravation of existing respiratory and cardiovascular diseases, premature death	alterations to the immune system, carcinogenesis
Lead	metal processing	reproductive/ developmental effects (fetuses and children)	numerous effects including neurological, endocrine, and cardiovascular effects

Notes: NO_X = oxides of nitrogen; ROG = reactive organic gases.

1. "Acute" refers to effects of short-term exposures to criteria air pollutants, usually at fairly high concentrations.

2 "Chronic" refers to effects of long-term exposures to criteria air pollutants, usually at lower, ambient concentrations.

Source: EPA 2018

TOXIC AIR CONTAMINANTS

According to the *California Almanac of Emissions and Air Quality* (CARB 2013), the majority of the estimated health risks from toxic air contaminants (TACs) can be attributed to relatively few compounds, the most important being diesel particulate matter (DPM). DPM differs from other TACs in that it is not a single substance, but rather a complex mixture of hundreds of substances. Although DPM is emitted by diesel-fueled internal combustion engines, the composition of the emissions varies depending on engine type, operating conditions, fuel composition, lubricating oil, and whether an emissions control system is being used. In addition to DPM, the TACs for which data are available that pose the greatest existing ambient risk in California are benzene, 1,3-butadiene, acetaldehyde, carbon tetrachloride, hexavalent chromium, para-dichlorobenzene, formaldehyde, methylene chloride, and perchloroethylene. Existing sources of DPM in the project area are exhaust from trucks and construction equipment with diesel engines.

ODORS

Odors are generally regarded as an annoyance rather than a health hazard. However, manifestations of a person's reaction to foul odors can range from psychological (e.g., irritation, anger, or anxiety) to physiological (e.g., circulatory and respiratory effects, nausea, vomiting, and headache). Odor sources of concern include wastewater treatment plants, sanitary landfills, composting facilities, petroleum refineries, chemical manufacturing plants, painting/coating operations, rendering plants, and food processing facilities (BAAQMD 2017a).

SENSITIVE RECEPTORS

Sensitive receptors are generally considered to include those land uses where exposure to pollutants could result in health-related risks to sensitive individuals, such as children or the elderly. Residential dwellings, schools, hospitals, playgrounds, and similar facilities are of primary concern because of the presence of individuals particularly sensitive to pollutants and/or the potential for increased and prolonged exposure of individuals to pollutants.

As discussed in Section 3.1, "Project Location and Physical Setting," the parcels adjacent to the project site include Los Paseos Park and single-family residential to the east, multi-family residential to the south, and single-family

residential to the west (See Figure 3-2). The nearest residential uses to the project site are multi-family residences, approximately 180 feet south of the project site, on Cypress Point Court.

4.3.2 Regulatory Setting

FEDERAL AND STATE

The U.S. Environmental Protection Agency (EPA) has been charged with implementing national air quality programs. EPA's air quality mandates are drawn primarily from the federal Clean Air Act (CAA), which was enacted in 1970 and most recently amended by Congress in 1990. The CAA required EPA to establish the National Ambient Air Quality Standards (NAAQS) for the following criteria air pollutants: ozone, CO, NO_2, SO_2, PM_{10}, $PM_{2.5}$, and lead. CAA also requires each state to prepare a State implementation plan (SIP) for attaining and maintaining the NAAQS. The federal Clean Air Act Amendments of 1990 (CAAA) added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air pollution. Individual SIPs are modified periodically to reflect the latest emissions inventories, planning documents, and rules and regulations of the air basins as reported by their jurisdictional agencies.

The California Air Resources Board (CARB) is the agency responsible for coordination and oversight of State and local air pollution control programs in California and for implementing the California Clean Air Act (CCAA). The CCAA, which was adopted in 1988, required CARB to establish its own California Ambient Air Quality Standards (CAAQS). CARB has established CAAQS for sulfates, hydrogen sulfide, vinyl chloride, visibility-reducing particulate matter, and the above-mentioned criteria air pollutants. In most cases the CAAQS are more stringent than the NAAQS.

The Santa Clara County portion of the SFBAAB is currently designated as nonattainment for ozone and $PM_{2.5}$ with respect to the NAAQS and for ozone, $PM_{2.5}$, and PM_{10} with respect to the CAAQS (CARB 2017).

REGIONAL/LOCAL

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) attains and maintains air quality conditions in the Bay Area, including the project area. The clean air strategy of BAAQMD includes the preparation of plans and programs for the attainment of ambient-air quality standards, adoption and enforcement of rules and regulations, and issuance of permits for stationary sources. BAAQMD also inspects stationary sources, responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements other programs and regulations required by the CAA and CCAA.

On April 19, 2017, BAAQMD adopted the *2017 Clean Air Plan: Spare the Air, Cool the Climate* (BAAQMD 2017b). The plan aims to lead the region to a post-carbon economy, to continue progress toward attaining all State and Federal air quality standards, and to eliminate health risk disparities from exposure to air pollution among Bay Area communities. It includes a wide range of proposed "control measures"—actions to reduce combustion-related activities, decrease fossil fuel combustion, improve energy efficiency, and decrease emissions of potent greenhouse gases (GHGs).

BAAQMD has also established thresholds of significance as well as screening criteria in their 2017 CEQA Air Quality Guidelines to determine if an impact on air quality would be significant. BAAQMD developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant air quality impacts. Screening criteria relevant to the project land use types are listed in Table 3.3-2.

Table 4.3-2 Criteria Air Pollutant and Precursor Screening Levels

Land Use Type	Construction-Related Criteria Pollutant Screening Size (square feet)	Operational-Related Criteria Pollutant Screening Size (square feet)
Quality restaurant	277,000	47,000
Medical office building	277,000	117,000

Source: BAAQMD 2017a

According to BAAQMD's CEQA Air Quality Guidelines, the construction of a project would result in a less-than-significant impact from criteria air pollutant and precursor emissions if:

- The project is below the applicable construction-related criteria pollutant screening size shown in Table 3.3-2; and
- All of BAAQMD's Basic Construction Mitigation Measures would be included in the project design and implemented during construction; and
- Construction-related activities would not include any of the following:
  a. Demolition;
  b. Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously);
  c. Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high density infill development);
  d. Extensive site preparation (i.e., greater than default assumptions used by the Urban Land Use Emissions Model [URBEMIS] for grading, cut/fill, or earth movement); or
  e. Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity.

If a project meets operational-related criteria pollutant screening size shown in Table 3.3-2, the project would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed BAAQMD's thresholds of significance. Operation of such a project would therefore result in a less-than-significant cumulative impact to air quality from criteria air pollutant and precursor emissions (BAAQMD 2017a).

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to air quality, and are relevant to this analysis:

GOAL MS-4 – Healthful Indoor Environment: Maximize the use of green building practices in new and existing development to promote a healthful indoor environment.

- Policy MS-4.1: Promote the use of building materials that maintain healthful indoor air quality in an effort to reduce irritation and exposure to toxins and allergens for building occupants.
- Policy MS-4.2: Encourage construction and pre-occupancy practices to improve indoor air quality upon occupancy of the structure.

GOAL MS-10 Air Pollutant Emission Reduction: Minimize air pollutant emissions from new and existing development.

- Policy MS-10.1: Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
- Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

GOAL MS-13 Construction Air Emissions: Minimize air pollutant emissions during demolition and construction activities.

- Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
- Policy MS-13.2: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.3 Discussion

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

No impact. The emission inventories used to develop a region's air quality attainment plans are based primarily on projected population growth and vehicle miles traveled (VMT) for the region, which are based, in part, on the planned growth identified in regional and community plans. Therefore, projects that would result in increases in population or employment growth beyond that projected in regional or community plans could result in increases in VMT above that planned in the attainment plan, further resulting in mobile source emissions that could conflict with a region's air quality planning efforts. Increases in VMT beyond that projected in area plans generally would be considered to have a significant adverse incremental effect on the region's ability to attain or maintain state and federal ambient air quality standards.

As discussed in Section 3.1.2, "Land Use Designations and Zoning," the project site is currently designated Neighborhood/Community Commercial (NCC) by the General Plan. This designation supports a broad range of commercial uses, including general office uses, hospitals, and private community gathering facilities. The project is consistent with the NCC land use designation and thus would not change the amount of development projected for the City. The project is also consistent with the population growth and VMT projections contained in the BAAQMD's air quality attainment plan. Therefore, the project's VMT is consistent with that projected for the area in the BAAQMD's *2017 Clean Air Plan*. No impact would occur.

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

Less than significant. As discussed in Section 3.3.2, "Regulatory Setting," BAAQMD developed construction- and operational-related screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant air quality impacts. As shown in Table 3.3-2, out of the two land use types applicable to the proposed project, the "quality restaurant" land use type (e.g., sit-down chain restaurants such as Applebee's and Olive Garden) has the lowest screening size of 277,000 square feet for construction-related impacts and 47,000 square feet for operational-related air quality impacts. The proposed project is a 7,000 square-foot single-story multi-tenant commercial building. The commercial building would be divided into four individual spaces and would accommodate a mix of uses including restaurant and medical office consistent with the NCC land use designation. Even if the entire 7,000 square foot building dedicated to the "quality restaurant" land use type, the proposed project would be well below the screening criteria levels.

Furthermore, in accordance with General Plan Policy MS-13.1, the proposed project would implement all BAAQMD's Basic Construction Mitigation Measures. Construction would not include demolition of existing structures, simultaneous occurrence of more than two construction phases, extensive site preparation, or extensive material transport. Thus, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. Impacts would be less than significant.

c) Expose sensitive receptors to substantial pollutant concentrations?

Less than significant.

Carbon Monoxide

The single largest source of carbon monoxide (CO) is motor vehicle engines. CO concentration near roadways is a direct function of vehicle idling time and, thus, traffic flow conditions. According to BAAQMD's screening methodology, if project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour, impacts would be less than significant. The proposed project would result in a temporary and periodic increase in vehicle trips related to worker commute, equipment delivery, and haul truck trips during the 6- to 8-month construction period. According to the Transportation Analysis (see Appendix B), the project would result in up to 20 new trips during the a.m. peak hour and 52 new trips during the p.m. peak hour during the operational phase. Therefore, the proposed project would not increase traffic on the roadways or intersections in the project vicinity to levels that would exceed the 1-hour CAAQS of 20 parts per million (ppm) or the 8-hour CAAQS of 9 ppm. CO impacts would be less than significant.

Toxic Air Contaminants

Operation of the proposed project would not involve frequent use of diesel trucks; therefore, operation of the project would not generate TACs at a level that could expose sensitive receptors to increased health risk.

Construction of the project would result in short-term diesel exhaust emissions from mechanical equipment and haul truck trips within 1,000 feet of residences. The dose to which receptors are exposed is the primary factor used to determine health risk (i.e., potential exposure to TAC emission levels that exceed applicable standards). Dose is a function of the concentration of a substance or substances in the environment and the duration of exposure to the substance. Dose is positively correlated with time, meaning that a longer exposure period would result in a higher exposure level for the maximally exposed individual.

According to the Office of Environmental Health Hazard Assessment (OEHHA), health risk assessments, which determine the exposure of sensitive receptors to TAC emissions, should be based on a 70- or 30-year exposure period. However, such assessments should be limited to the period/duration of activities that generate TAC emissions (OEHHA 2015). The majority of DPM-emitting activities associated with the proposed project would occur during the 6- to 8-month construction period, which is a short exposure period relative to the 30- or 70-year exposure timeframe recommended for health risk assessments. In addition, studies show that DPM is highly dispersive and that concentrations of DPM decline with distance from the source (e.g., 500 feet from a freeway, the concentration of diesel PM decreases by 70 percent) (Roorda-Knape et al. 1999 and Zhu et al. 2002, as cited in CARB 2005:9).

Therefore, considering the relatively short duration of construction activities as well as the highly dispersive properties of DPM, the project would not expose sensitive receptors to a substantial concentration of TACs. Sensitive receptors, the nearest of which are located 180 feet away on Cypress Point Court, would not be exposed to substantial pollutant concentrations during project construction nor operation. Impacts would be less than significant.

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

Less than significant. Common sources of odors and odor complaints are uses such as wastewater treatment plants, landfills, transfer stations, composting facilities, painting/coating operations, and chemical manufacturing plants. The proposed project does not include any of the uses identified by the BAAQMD as being associated with odors. While the project does include restaurant uses, compliance with industry standard odor control practices would limit potential objectionable odor impacts during the project's long-term operations. Minor odors from the use of diesel-powered vehicles and equipment during construction would be intermittent and temporary. Odors would dissipate rapidly from the source with an increase in distance and cease upon project completion. Therefore, the proposed project would not be anticipated to result in odorous emissions that would adversely affect a substantial number of people. Impacts would be **less than significant**.

4.4 BIOLOGICAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. Biological Resources.				
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐

4.4.1 Regulatory Setting

FEDERAL

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA), first enacted in 1918, provides for protection of international migratory birds and authorizes the Secretary of the Interior to regulate the taking of migratory birds. The MBTA provides that it will be unlawful, except as permitted by regulations, to pursue, take, or kill any migratory bird, or any part, nest, or egg of any such bird. Under the MBTA, "take" is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

any attempt to carry out these activities." A take does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof. The current list of species protected by the MBTA can be found in Title 50 of the Code of Federal Regulations (CFR), Section 10.13 (50 CFR 10.13). The list includes nearly all birds native to the United States. On December 22, 2017, the Secretary of the Interior issued a legal, revised interpretation (Opinion M-37050) of the MBTA's prohibition on the take of migratory bird species concluding that it applies only to "affirmative actions that have as their purpose the taking or killing of migratory birds, their nests, or their eggs." According to Opinion M-37050, take of a migratory bird, its nest, or eggs that is incidental to another lawful activity does not violate the MBTA, and the MBTA's criminal provisions do not apply to those activities. Opinion M-37050 may affect how MBTA is interpreted but it does not legally change the regulation itself.

REGIONAL

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan), adopted by the City in 2013, covers approximately 519,506 acres, primarily within southern Santa Clara County, nine special-status plant, and nine special-status animal species. The Habitat Plan is "intended to provide an effective framework to protect, enhance, and restore natural resources in specific areas of Santa Clara County, while improving and streamlining the environmental permitting process for impacts on threatened and endangered species." The proposed project is located within the boundaries of the Habitat Plan and is designated as Urban Development. This category is intended to be as inclusive as possible to accommodate urban growth and all ground-disturbing activities within designated urban areas. It includes the construction and maintenance of typical urban facilities, public and private, consistent with local general plans and local, state, and federal laws.

LOCAL

Envision San José 2040 General Plan

The Envision San José General Plan contains the following polices that pertain to biological resources, and are relevant to this analysis:

- **Policy ER-4.4:** Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
- **Policy ER-5.1**: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
- **Policy ER-5.2**: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
- **Policy MS-21.4:** Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
- **Policy MS-21.5**: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effects on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
- **Policy MS-21.6:** As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

- Policy MS-21.8: For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:
  - Avoid conflicts with nearby power lines.
  - Avoid potential conflicts between tree roots and developed areas.
  - Avoid use of invasive, non-native trees.
  - Remove existing invasive, non-native trees.
  - Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
  - Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.
- Policy CD-1.24: Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

Tree Removal Controls

The City of San José's Municipal Code Section 13.32 regulates the removal of trees in the City including any live or dead woody perennial plant. An "ordinance tree" is defined as any native or non-native tree with a circumference of 38 inches (diameter of about 12 inches) measured at 4½ feet above natural grade. For multi-trunk trees, the circumference is measured as the sum of the circumferences of all trunks at 4½ feet above grade. A "heritage tree" is defined as a tree of special significance to the community due to history, girth, height, species, or other unique quality. The project site contains four trees that meet the ordinance tree criteria.

4.4.2 Environmental Setting

The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. Development located adjacent to the shopping center include commercial uses to the northwest, a church and single- and multi-family residential uses to the northeast, Los Paseos Park to the southeast, and single-family residential uses to the east, multi-family residential uses to the south, and single-family residential uses to the west. The project site is located within the boundaries of the Habitat Plan and is designated as Urban Development. The Urban Development land use category includes residential densities greater than 1 dwelling unit per 2.5 acres, as well as all industrial, commercial, institutional, public facilities, public/quasi-public, and major educational facilities land-use designations (Santa Clara County 2012). Accordingly, the project site does not feature, nor connect to areas of natural habitat or areas of natural open space.

Bo Firestone Consulting and Design prepared an arborist report for the project site on October 30, 2019. The report is included as Appendix C. The arborist report identified four existing trees; 3 mature Crape Myrtles (*Lagerstroemia fauriei*)in good condition, two of which have a trunk circumference of 14 inches, and the third measures 91 inches, the fourth tree, an Australian willow (*Geijera parviflora*), is in fair condition and has a trunk circumference of 60 inches.. The on-site trees meet the ordinance tree criteria pursuant to San José's Municipal Code Section 13.32.

4.4.3 Discussion

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

Less than significant with mitigation incorporated. The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. Pursuant to the Habitat Plan, the project site is designated as Urban Development and special-status species are generally not believed to occur on-site. However, the four trees located on the project site may provide potential nesting habitat for bird species protected by the MBTA. Removal of the four on-site trees during nesting season could result in a substantial adverse effect to migratory birds. This impact would be potentially significant.

Mitigation Measure BIO-1: Protection of Nesting Birds

Construction shall be scheduled between September 1st and January 31st (inclusive) to avoid the nesting season. If this is not possible, pre-construction surveys for nesting raptors and other migratory breeding birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation onsite and within 250 feet of the site. Between February 1st and April 30th (inclusive) pre-construction surveys shall be conducted no more than 14 days before the initiation of construction activities or tree relocation or removal. Between May 1st and August 31st (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days before the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for nests.

If an active nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the California Department of Fish and Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet for raptors) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified ornithologist has determined that the young birds have fledged.

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

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow

Warblers. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with CDFW. The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.

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

Significance after Mitigation

Implementation of Mitigation Measure BIO-1 would reduce impacts associated with nesting habitat for bird species protected by the MBTA to a less than significant level by requiring construction to be scheduled outside of the nesting season and preparation of pre-construction surveys for nesting raptors and other migratory breeding birds. In addition to implementation of BIO-1, the proposed project would be required to comply with General Plan Policy

ER-5.1 which directs the City to avoid implementing activities that result in the loss of active native birds' nests, and Policy ER-5.2 which directs the City to require development projects incorporate measures to avoid impacts to nesting migratory birds. Therefore, with implementation of Mitigation Measure BIO-1 and compliance with General Plan policies, this impact would be **less-than-significant**.

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 California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?

No impact. The project site does not contain riparian habitat, native grasslands, or other sensitive natural community. Therefore, the proposed project would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community. **No impact** would occur.

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?

No impact. The project site does contain wetland resources. Therefore, the proposed project would not result in a substantial adverse effect on state or federally protected wetlands. **No impact** would occur.

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

No impact. The is in an urbanized area, is completely paved, and serves as the parking lot for the Santa Teresa Shopping center. Development located adjacent to the shopping center include commercial uses to the northwest, a church and single- and multi-family residential uses to the northeast, Los Paseos Park to the southeast, and single-family residential uses to the east, multi-family residential uses to the south, and single-family residential uses to the west. The highly urbanized nature of the project site and surrounding area precludes the potential for the movement of native resident, migratory fish, or wildlife species, as well as the presence of wildlife nursery sites; therefore, implementation of the project would not interfere with such movement or impede the use of nursery sites. **No impact** would occur.

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

Less than significant. Development of the proposed project would result in the removal of four existing trees; 3 mature Crape Myrtles (*Lagerstroemia fauriei*)in good condition, two of which have a trunk circumference of 14 inches, and the third measures 91 inches, the fourth tree, an Australian willow (*Geijera parviflora*), is in fair condition and has a trunk circumference of 60 inches.

Pursuant to San José's Municipal Code Section 13.32, the project applicant would be required to obtain a tree removal permit before removing any on-site trees. In addition, trees removed shall be replaced in accordance with the City's Tree Replacement Ratio. As shown in Table 4.4-1 below, the project applicant would be required to plant 10 replacement trees. The landscape plan for the proposed project includes a total of 19 trees, which exceeds the City tree replacement requirements. Because the project would comply with the City's tree replacement requirements, the impact would be **less than significant**.

Table 4.4-1 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

Source: City of San José 2020

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?

Less than significant. The project site is located within the boundaries of the Habitat Plan and is designated as Urban Development. Pursuant to the Habitat Plan, the construction of residential, commercial, industrial, and other types of development in areas designated as urban is considered a "covered activity" under the Habitat Plan. Accordingly, the proposed project would be covered under the Habitat Plan. The project site is completely paved and does not contain sensitive species of habitat types. In conformance with the Habitat Plan, the project applicant would be required to implement the following measure:

- The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) before issuance of any grading permits. The project applicant shall submit a Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for review and will complete subsequent forms, reports, and/or studies as needed and prior to the issuance of a grading permit.

Because the project would comply with the Habitat Plan requirements, project development would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The impact would be less than significant.

4.5 CULTURAL RESOURCES

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

4.5.1 Regulatory Setting

STATE

California Environmental Quality Act

CEQA requires public agencies to consider the effects of their actions on historical resources, unique archaeological resources, and tribal cultural resources (TCRs). TCRs are evaluated in Section 3.18, "Tribal Cultural Resources." Pursuant to PRC Section 21084.1, a "project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." Section 21083.2 requires agencies to determine whether projects would have effects on unique archaeological resources.

<u>Historical Resources</u>

"Historical resource" is a term with a defined statutory meaning (PRC Section 21084.1; determining significant impacts to historical and archaeological resources is described in the State CEQA Guidelines, Sections 15064.5[a] and [b]). Under State CEQA Guidelines Section 15064.5(a), historical resources include the following:

1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (PRC Section 5024.1).

2) A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the PRC or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the PRC, will be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be a historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource will be considered by the lead agency to be historically significant if the resource meets the criteria for listing in the California Register of Historical Resources (PRC Section 5024.1), including the following:

    a. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

b. Is associated with the lives of persons important in our past;

c. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

d. Has yielded, or may be likely to yield, information important in prehistory or history.

4) The fact that a resource is not listed in or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to Section 5020.1(k) of the PRC), or identified in a historical resources survey (meeting the criteria in Section 5024.1(g) of the PRC) does not preclude a lead agency from determining that the resource may be an historical resource as defined in PRC Section 5020.1(j) or 5024.1.

Unique Archeological Resources

CEQA also requires lead agencies to consider whether projects will impact unique archaeological resources. PRC Section 21083.2, subdivision (g), states that unique archaeological resource means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.

2) Has a special and particular quality such as being the oldest of its type or the best available example of its type.

3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. The Act requires that upon discovery of human remains, construction or excavation activity cease and the County coroner be notified. If the remains are of a Native American, the coroner must notify NAHC, which notifies and has the authority to designate the most likely descendant of the deceased. The Act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods.

Health and Safety Code, Sections 7050.5 and 7052

Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact the NAHC. Section 7052 states that the disturbance of Native American cemeteries is a felony.

Public Resources Code Section 5097

PRC Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. The disposition of Native American burial falls within the jurisdiction of the NAHC. Section 5097.5 of the Code states the following:

> No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor.

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to cultural resources, and are relevant to this analysis:

- 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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
- 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 their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
- Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Historic Preservation Ordinance

The City of San José's Municipal Code Section 13.48 establishes criteria for designating historic resources within the city, historic preservation permit requirements, designation process, and maintenance of the historic resources inventory.

4.5.2 Environmental Setting

The project site is located in an urbanized area, is completely paved, and serves as the parking lot for the Santa Teresa Shopping center. There are no buildings directly on the project site. Surrounding buildings associated with the shopping center are not included in the California Register of Historical Resources or designated as a historic resource in the City's Historic Resource Inventory database (City of San José 2020).

4.5.3 Discussion

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

No impact. There are no buildings on the project site. Surrounding buildings associated with the shopping center are not included in the California Register of Historical Resources or designated as a historic resource in the City's Historic Resource Inventory database. Therefore, the proposed project would cause a substantial adverse change in the significant of a historical resource pursuant to Section 15064.5. No impact would occur.

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

Less than significant. The project site is located in an urbanized area, is completely paved, and serves as the parking lot for the Santa Teresa Shopping center. Because the project site was previously disturbed during development of the existing shopping center, it is unlikely that the site contains archaeological resources. However, although unlikely, ground disturbing such as site preparation, grading, and excavation could disturb previously unrecorded archaeological resources, if present on the project site, during project construction. As part of the City's development approval process, the project would be required to comply with the following standard permit conditions:

Standard Permit Conditions

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Mandatory compliance with the City's standard permit conditions would require the performance of professionally accepted and legally compliant procedures for the discovery of previously undocumented archaeological resources. Therefore, the project would not cause a substantial adverse change in the significance of an archaeological resource. The impact would be **less than significant**.

c) Disturb any human remains, including those interred outside of formal cemeteries?

Less than significant. The project site is located in an urbanized area, is completely paved, and serves as the parking lot for the Santa Teresa Shopping center. There are no known human remains, including those of Native American ancestry, on the project site. However, location of grave sites and Native American remains can occur outside identified cemeteries or burial sites. Therefore, there is a possibility that unmarked, previously unknown Native American or other graves could be present within future project sites and could be uncovered during construction activities.

California recognizes the need to protect Native American human burials, skeletal remains, and items associated with Native American burials from vandalism and inadvertent destruction. The procedures for the treatment of Native American human remains are contained in California Health and Safety Codes Sections 7050.5 and 7052 and Public Resource Code (PRC) Section 5097.

These statutes require that, if human remains are discovered during construction activities, potentially damaging ground-disturbing activities in the area of the remains shall be halted immediately, and the County coroner and Native American Heritage Commission (NAHC) shall be notified immediately, in accordance with PRC Section 5097.98 and California Health and Safety Code Section 7050.5. If the remains are determined by NAHC to be Native American, the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in PRC Section 5097.94. Compliance with California Health and Safety Code Sections 7050.5 and 7052, and PRC Section 5097 would avoid or minimize the disturbance of human remains, and to appropriately treat any remains that are discovered. Therefore, the project would not disturb human remains, including those interred outside of formal cemeteries. The impact would be **less than significant**.

Standard Permit Conditions

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

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

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

i. 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.

ii. The MLD identified fails to make a recommendation; or

iii. 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.

4.6 ENERGY

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

4.6.1 Regulatory Setting

FEDERAL

The Energy Policy and Conservation Act of 1975 established nationwide fuel economy standards to conserve oil. Under this act, the National Highway Traffic and Safety Administration, is responsible for revising existing fuel economy standards and establishing new vehicle economy standards. The Corporate Average Fuel Economy program was established to determine vehicle manufacturer compliance with the government's fuel economy standards. Three Energy Policy Acts have been passed, in 1992, 2005, and 2007, to reduce dependence on foreign petroleum, provide tax incentives for alternative fuels, and support energy conservation.

STATE

Warren-Alquist Act

The 1975 Warren-Alquist Act established the California Energy Resources Conservation and Development Commission, now known as the California Energy Commission (CEC). The Act established State policy to reduce wasteful, uneconomical, and unnecessary uses of energy by employing a range of measures. The California Public Utilities Commission (CPUC) regulates privately-owned utilities in the energy, rail, telecommunications, and water fields.

State of California Energy Action Plan

The CEC, CPUC, and now defunct Consumer Power and Conservation Financing Authority prepared the first State of California Energy Action Plan (EAP) in 2003 to establish shared goals and specific actions to ensure that adequate, reliable, and reasonably-priced electrical power and natural gas supplies are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers. The plan was updated in 2005 and 2008 to address policy the emerging importance of climate change, transportation-related energy issues, and research and development activities (CEC and CPUC 2008).

California Green Building Standards

Title 24 CCR Part 6, is California's Energy Efficiency Standards for Residential and Non-Residential Buildings. Title 24 was established by CEC in 1978 in response to a legislative mandate to create uniform building codes to reduce California's energy consumption and provide energy efficiency standards for residential and non-residential buildings. In 2016, CEC updated Title 24 standards, effective January 1, 2017. For each year of construction activity (in both newly constructed buildings and alterations to existing buildings) the standards are estimated to reduce the growth in electricity by 385 GWh and to reduce natural gas use by 26.86 million therms (CEC 2015).

Renewable Energy Regulations

SB X1-2 of 2011 requires all California utilities to generate 33 percent of their electricity from renewables by 2020. SB X1-2 also requires the renewable electricity standard to be met increasingly with renewable energy that is supplied to the California grid from sources within, or directly proximate to, California. SB X1-2 mandates that renewables from these sources make up at least 50 percent of the total renewable energy for the 2011-2013 compliance period, at least 65 percent for the 2014-2016 compliance period, and at least 75 percent for 2016 and beyond.

SB 100, signed in September 2018, requires that all California utilities, including independently-owned utilities, energy service providers, and community choice aggregators, supply 44 percent of retail sales from renewable resources by December 31, 2024, 50 percent of all electricity sold by December 31, 2026, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. The law also requires that eligible renewable energy resources and zero-carbon resources supply 100 percent of retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all State agencies by December 31, 2045.

Transportation and GHG-Related Regulations

Various regulatory and planning efforts are aimed at reducing dependency on fossil fuels, increasing the use of alternative fuels, and improving California's vehicle fleet. Senate Bill (SB) 375 aligns regional transportation planning efforts, regional GHG emission reduction targets, and land use and housing allocation. Pursuant to Assembly Bill (AB) 2076 (Chapter 936, Statutes of 2000), CEC and the CARB prepared and adopted a joint agency report in 2003, Reducing California's Petroleum Dependence. Included in this report are recommendations to increase the use of alternative fuels to 20 percent of on-road transportation fuel use by 2020 and 30 percent by 2030, significantly increase the efficiency of motor vehicles, and reduce per-capita VMT (CEC and CARB 2003). AB 1007 (Chapter 371, Statues of 2005) required the CEC to prepare the State Alternative Fuels Plan to increase the use of alternative fuels in California. In January 2012, CARB approved the Advanced Clean Cars program which requires battery, fuel cell, and/or plug-in hybrid electric vehicles to account for up to 15 percent of California's new vehicle sales by 2025.

Several regulatory measures such as AB 32 and the Climate Change Scoping Plan, Executive Order (EO) B-30-15, SB 32, and AB 197 were enacted to reduce GHGs and have the co-benefit of reducing California's dependency on fossil fuels and making land use development and transportation systems more energy efficient.

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to energy, and are relevant to this analysis:

- **Policy MS-2.3**: Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
- **Policy MS-2.4:** Promote energy efficient construction industry practices.
- **Policy MS-2.5**: Encourage responsible forest management in wood material selections and encourage the use of rapidly renewable materials.
- **Policy MS-2.6:** Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
- **Policy MS-2.11**: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

- Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
- Policy MS-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.

City of San José Council Policy

City Council Policy 6-32, Private Sector Green Building Policy, establishes baseline green building standards for private sector new construction. The policy requires that applicable projects achieve minimum green building performance levels using the Council adopted reference standards, as shown in Table 3.6-1 below.

Table 4.6-1 Private Sector Green Building Policy

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

Notes: LEED = Leadership in Energy and Environmental Design

City of San José Municipal Code

In September 2019, San José City Council approved a building reach code ordinance that encourages building electrification and energy efficiency, requires solar-readiness on nonresidential buildings, and requires electric vehicle (EV)-readiness and EV equipment installation. These efforts are above and beyond what is required by the state's Green Building Standards. Nonresidential building mandatory measures include installing EV charging stations and EV capable and EV supply equipment (EVSE) percentage standards for parking spaces. Mixed-fuel buildings (buildings that use natural gas or propane as fuel for space heating, water heating, cooking appliances, or clothes drying appliances or is plumbed for such equipment) are also subject to additional efficiency requirements and performance standards, as describe in Sections 24.12.300 and 24.12.400 of the Municipal Code.

Climate Smart San José

The City adopted Climate Smart San José in 2018, which aligns with the GHG reduction targets of the Paris Climate Agreement and sets ambitious goals for energy, water, transportation, and local jobs. Key strategies pertaining to energy include transitioning to renewable energy; making homes energy efficient; embracing new technology to enable clean, electric, and personalized mobility choices; making commercial buildings high-performance and siting them close to transit to lower water and energy use; and moving commercial goods efficiently.

4.6.2 Environmental Setting

Pacific Gas and Electric Company (PG&E) is a regulated public utility that provides natural gas and electric service to approximately 16 million people throughout a 70,000-square mile service area in California, including the City of San José. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2018, nuclear plants provided 34 percent of PG&E's electricity delivered to retail customers; large hydroelectric facilities provided 13 percent; renewable energy facilities including wind, geothermal, biomass, solar and small hydro provided 39 percent; and natural gas/other facilities provided 15 percent (PG&E n.d.).

4.6.3 Discussion

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

Less than significant. Energy would be consumed during project construction to operate and maintain construction equipment, transport construction materials and excavated fill, and for worker commute. This one-time energy expenditure required to construct the project would be nonrecoverable. The energy needs for project construction would be temporary and would not require additional capacity or increase peak or base period demands for electricity or other forms of energy.

The proposed project would be constructed in compliance with General Plan Policy MS-2.4, which promotes energy efficient construction practices and with General Plan Policy MS-13.1, which requires the implementation of BAAQMD's Basic Construction Mitigation Measures. BAAQMD's Basic Construction Mitigation Measures include a measure to reduce maximum idling time to 5 minutes. While this measure is intended to reduce construction criteria pollutant emissions, compliance with this anti-idling regulation would also result in the minimization or elimination of wasteful and unnecessary fuel consumption.

The proposed project is subject to City's building reach code ordinance and to City Council Policy 6-32, which establishes baseline green building standards for private sector new construction. The proposed project is categorized as commercial and less than 25,000 square feet, and thus, would be required to meet the LEED Applicable New Construction Checklist. The checklist contains criteria such as energy performance standards, renewable energy production, building-level energy metering, and water efficiency measures, which would reduce the project's operational phase energy consumption.

Furthermore, in accordance with Climate Smart San José's strategy regarding the performance of commercial buildings and with General Plan policies MS-2.3, MS-2.5, MS- 2.6, and MS-14.4, the proposed project would implement green building practices such to maximize energy efficiency and conservation and to maximize the use of renewable energy sources. Therefore, the proposed project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources during construction or operation. Impacts would be **less than significant**.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency

Less than significant. As discussed in criterion (a) above, the project would be required to meet the LEED Applicable New Construction Checklist pursuant to City Council Policy 6-32. Additionally, the proposed project would comply with applicable General Plan polices, which would promote energy efficient construction practices and require the implementation of the City's Green Building Policies. These policies and measures would improve energy efficiency and reduce energy consumption. Thus, the project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Impacts would be **less than significant**.

4.7 GEOLOGY AND SOILS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. Geology and Soils.				
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to California Geological Survey Special Publication 42.)	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994, as updated), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

4.7.1 Regulatory Setting

STATE

California Building Code

The California Building Code, in Title 24 of the California Code of Regulations, contains specific requirements for seismic safety, excavation, foundations, grading activities, drainage, and erosion control. The City of San José Municipal Code adopts the California Building Code by reference in Chapter 24.03, "Building Code."

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to geology and soils, and are relevant to this analysis:

- Policy EC-3.2: Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
- Policy EC-4.2: Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
- Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
- Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of 1 acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.
- Policy EC-4.7: Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.
- Policy EC-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

Chapter 24.03 of the San José Municipal Code adopts the 2019 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes by reference. These regulations are based upon the 2019 California Building Code and include requirements for building foundations, walls, and seismic resistant design. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40, "Dangerous Buildings," and Chapter 17.10, "Geologic Hazards Regulations," of the City's Municipal Code. Requirements for grading and excavation permits and erosion control are included in Chapter 17.10, "Building Code, Part 6 Excavation and Grading." Geologic hazards regulations in Chapter 17.10 of the San José Municipal Code restrict the ability to issue grading and building permits within defined geologic hazard zones until the Director of Public Works has issued a Certificate of Geologic Hazard Clearance. The areas of the City affected by these requirements include identified areas with very

high landslide susceptibility, high or moderate/high landslide susceptibility zones, designated State Seismic Hazard Zones for Liquefaction and Earthquake-Induced Landslides, and mapped fault hazard zones. There are no known landslides on the project site, nor is the site in the path of any known or potential landslides.

4.7.2 Environmental Setting

Salem Engineering Group Inc., prepared geotechnical engineering investigation for the project site on October 31, 2019. The investigation is included as Appendix D.

GEOLOGIC SETTING

The project site is located in the Santa Clara Valley within the Coast Ranges Geomorphic Province of California. The Coast Ranges generally consist of an alternating series of parallel mountains and valleys located adjacent to the Pacific Coast. The project site is relatively flat with elevations of about 211 feet above mean sea level. Based on review of the Geologic map of the Santa Teresa Hills quadrangle, Santa Clara County, California, the site is located in an area mapped as (Qa) Quaternary era alluvial deposits including gravel, sand and clay of valley areas. The soils observed on site resemble the mapped alluvial deposits for this area.

GEOLOGIC HAZARDS

Faulting and Seismicity

Based on the proximity of several dominant active faults and seismogenic structures, as well as the historic seismic record, the vicinity of the project site is considered subject to relatively moderate seismicity. The seismic hazard most likely to impact the site is ground-shaking due to a large earthquake on one of the major active regional faults. Moderate to large earthquakes have affected the area of the subject site within historic time. However, the project site is not located within an Alquist-Priolo Special Studies Zone and there are no known active fault traces in the immediate project vicinity. In addition, the project site is not located within an established State of California Earthquake Fault Zone for surface fault rupture hazards.

Liquefaction

Soil liquefaction is a state of soil particles suspension caused by a complete loss of strength when the effective stress drops to zero. Liquefaction normally occurs under saturated conditions in soils such as sand in which the strength is purely frictional. Primary factors that trigger liquefaction are: moderate to strong ground shaking (seismic source), relatively clean, loose granular soils (primarily poorly graded sands and silty sands), and saturated soil conditions (shallow groundwater). Due to the increasing overburden pressure with depth, liquefaction of granular soils is generally limited to the upper 50 feet of a soil profile. The project site is located within an area mapped for liquefaction potential. Based on the results of the liquefaction/seismic settlement analysis, the sandy lean clay soils underlain the project site have a moderate liquefaction potential. In addition, the project site contains expansive soils.

Lateral Spreading

Lateral spreading is a phenomenon in which soils move laterally during seismic shaking and is often associated with liquefaction. The amount of movement depends on the soil strength, duration and intensity of seismic shaking, topography, and free face geometry. Due to the relatively flat site topography, clayey nature of the near surface soils, and the moderate liquefaction potential, the likelihood of lateral spreading is low.

Landslides

There are no known landslide occurrences on the project site, nor is the project site located in the path of any known or potential landslides.

Tsunamis and Seiches

The site is not located within a coastal area or near other large bodies of water. Therefore, tsunamis (seismic sea waves) or seiches (large waves in an enclosed or partially enclosed body of water) are not considered a significant hazard on the project site.

PALEONTOLOGICAL RESOURCES

Paleontological resources include fossils – the remains or traces of once-living organisms preserved in sediments or sedimentary rocks – and the geologic context in which they occur. By convention, paleontological resources do not include human remains, artifacts (objects created by humans), or other evidence of past human activities which are the subjects of the field of archaeology.

Vertebrate and invertebrate fossils are found in geologic strata conducive to their preservation, typically sedimentary formations. recent Holocene sediments over much of the Santa Clara Valley cover older sediments and sedimentary rock of the Pleistocene age, the time period that spanned from 1.8 million to about 10,000 years ago, which have a greater potential to contain fossils. The Holocene is the last 10,000 years or so of the Earth's history after the last major glacial period. The project site is located in an area where the degree for paleontological sensitivity varies by depth.

4.7.3 Discussion

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

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

No impact. The project site is not located within a delineated Alquist-Priolo Earthquake Fault Zones. No impact would occur.

ii) Strong seismic ground shaking?

Less than significant. Earthquakes along active faults in the region could cause moderate to strong ground shaking on the project site. The intensity of the earthquake ground motion and the resulting damage would depend on the distance to the fault rupture zone, earthquake magnitude, earthquake duration, and site-specific geologic conditions. The project could indirectly expose individuals to strong seismic ground shaking. However, as part of the City's development approval process, the project would be required to comply with standard permit conditions.

<u>Standard Permit Conditions</u>

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

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

Mandatory compliance with the City's standard permit conditions would require the project to incorporate standard engineering and seismic safety design techniques to reduce the risk to life or property on-site and off-site to the

extent feasible. Therefore, the project would not expose individuals to expose individuals to strong seismic ground shaking. The impact would be **less than significant**.

iii) Seismic-related ground failure, including liquefaction?

Less than significant. The project site is located in an area mapped for liquefaction potential and based on the results of the liquefaction/seismic settlement analysis the sandy lean clay soils underlain the project site have a moderate liquefaction potential. In the event of seismic rupture, the proposed commercial building could expose individuals to seismic-related ground failure including liquefaction. Pursuant to General Plan policies (listed above) and Chapter 17.10 of the San José, the project would be designed and constructed in accordance with the design-level geotechnical investigation prepared by Salem Engineering Group Inc. on October 31, 2019 (Appendix D). As part of the City's development approval process, the project would be required to comply with standard permit conditions.

Standard Permit Conditions

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

> A design-level geotechnical investigation report shall be submitted to the Public Works Project Engineer for review and approval by the City Geologist before issuance of a grading permit or a Public Works Clearance. Foundation, earthwork and drainage recommendations should be included in the report. The geotechnical report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining, and drainage recommendations. The investigation shall be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center Report (SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the geotechnical report and issue a Geologic Clearance.

Mandatory compliance with the City's standard permit conditions would require the project to implement appropriate design and construction techniques identified in the design-level geotechnical report to minimize risks to people and structures. Therefore, the project would not expose individuals to expose individuals to seismic related ground failure including liquefaction. The impact would be **less than significant**.

iv) Landslides?

No impact. There are no known landslide occurrences on the project site, nor is the project site located in the path of any known or potential landslides. No impact would occur.

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

Less than significant. Project construction would require earthwork activities involving approximately 4,000 cubic yards of material, which could temporarily expose soils and increase the potential for soil erosion from wind or stormwater runoff. As discussed in Section 4.10, "Hydrology and Water Quality," enforcement of the City's National Pollutant Discharge Elimination System General Permit, General Plan policies, and requirements for grading, excavation permits, and erosion control requirements in Chapter 17.10 of the San José Municipal Code would avoid or reduce excessive erosion. In addition, as part of the City's development approval process, the project would be required to comply with standard permit conditions.

Standard Permit Conditions

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

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

Mandatory compliance with the City's adopted regulations and standard permit conditions would require the project to minimize erosion and loss of topsoil during construction. Therefore, the project would not result in substantial erosion or the loss of topsoil. The impact would be **less than significant**.

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

Less than significant. The project site is not subject to landslide or lateral spreading. As discussed in Criterion (a)(iii), mandatory compliance with the City's standard permit conditions would require the project to implement appropriate design and construction techniques identified in the design-level geotechnical report to minimize risks associated with geologic hazards. Therefore, the project would not result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. The impact would be **less than significant**.

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

Less than significant. The project site contains expansive soils. As discussed in Criterion (a)(iii), mandatory compliance with the City's standard permit conditions would require the project to implement appropriate design and construction techniques identified in the design-level geotechnical report to minimize risks associated with geologic hazards, including expansive soils. Therefore, the project would not result create substantial direct or indirect risks to life or property. The impact would be **less than significant**.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

No impact. The proposed project does not include installation of any septic system. **No impact** would occur.

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

Less than significant. The project site is located in an area where the degree for paleontological sensitivity varies by depth. Because the project site was previously disturbed during development of the existing shopping center, it is unlikely that the site contains paleontological resources. However, ground disturbing such as site preparation, grading, and excavation could disturb previously unrecorded paleontological resources, if present on the project site, during project construction. As part of the City's development approval process, the project would be required to comply with standard permit conditions.

<u>Standard Permit Conditions</u>

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

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

Mandatory compliance with the City's standard permit conditions would require the performance of professionally accepted and legally compliant procedures for the discovery of previously undocumented paleontological resources. Therefore, the project would not directly or indirectly destroy a unique paleontological resource, site, or unique geologic feature. The impact would be **less than significant**.

4.8 GREENHOUSE GAS EMISSIONS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. Greenhouse Gas Emissions.				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

4.8.1 Regulatory Setting

FEDERAL

The U.S. Environmental Protection Agency (EPA) is the federal agency responsible for implementing the federal Clean Air Act (CAA) and its amendments. EPA has taken steps to regulate GHG emissions and lent support for state and local agencies' efforts to reduce GHG emissions. In October 2012, EPA and the National Highway Traffic Safety Administration, issued rules to reduce GHG emissions and improve corporate average fuel economy standards for light-duty vehicles for model years 2017 and beyond (77 FR 62624).

STATE

Executive Order S-3-05

EO S-3-05, signed by Governor Arnold Schwarzenegger in 2005, establishes total GHG emission targets for the state. Specifically, emissions are to be reduced to the 2000 level by 2010, the 1990 level by 2020, and to 80 percent below the 1990 level by 2050.

Assembly Bill 32, the California Global Warming Solutions Act of 2006

In September 2006, Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006, AB 32. AB 32 establishes regulatory, reporting, and market mechanisms to achieve quantifiable reductions in GHG emissions and a cap on statewide GHG emissions. AB 32 requires that statewide GHG emissions be reduced to 1990 levels by 2020. AB 32 also requires that these reductions "shall remain in effect unless otherwise amended or repealed. (b) It is the intent of the Legislature that the statewide GHG emissions limit continue in existence and be used to maintain and continue reductions in emissions of GHGs beyond 2020. (c) The [Air Resources Board] shall make recommendations to the Governor and the Legislature on how to continue reductions of GHG emissions beyond 2020." [California Health and Safety Code, Division 25.5, Part 3, Section 38551]

On December 14, 2017, CARB approved the *2017 Climate Change Scoping Plan* (2017 Scoping Plan). The 2017 Scoping Plan lays out the framework for achieving the mandate of SB 32 of 2016 to reduce statewide GHG emissions to at least 40 percent below 1990 levels by the end of 2030 (CARB 2017). On July 11, 2018, CARB announced that California has met its target of reducing GHG emissions to below 1990 levels by 2020 (CARB 2018).

Executive Order B-30-15

On April 20, 2015 Governor Brown signed EO B-30-15 to establish a California GHG reduction target of 40 percent below 1990 levels by 2030.

Senate Bill 32 and Assembly Bill 197 of 2016

In August 2016, Governor Brown signed SB 32 and AB 197, which serve to extend California's GHG reduction programs beyond 2020. SB 32 amended the Health and Safety Code to include Section 38566, which contains language to authorize CARB to achieve a statewide GHG emission reduction of at least 40 percent below 1990 levels by no later than December 31, 2030. SB 32 codified the targets established by EO B-30-15 for 2030, which set the next interim step in the State's continuing efforts to pursue the long-term target expressed in EOs S-3-05 and B-30-15 of 80 percent below 1990 emissions levels by 2050.

REGIONAL/LOCAL

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) attains and maintains air quality conditions in the Bay Area, including the project area. BAAQMD also recommends methods for analyzing project-generated GHGs in CEQA analyses. BAAQMD developed thresholds of significance to provide a uniform scale to measure the significance of GHG emissions from land use and stationary source projects in compliance with CEQA and AB 32. However, since the passage of SB 32 and AB 197 and the associated adoption of a revised statewide emissions target of 40 percent below 1990 levels by 2030, BAAQMD has not yet adopted new thresholds in compliance with this target.

BAAQMD's approach to developing a threshold of significance for GHG emissions is to identify the emissions level for which a project would not be expected to substantially conflict with existing California legislation adopted to reduce statewide GHG emissions needed to move towards climate stabilization. If a project would generate GHG emissions above the threshold level, it would be considered to contribute substantially to a cumulative impact and would be considered significant. BAAQMD's Threshold of Significance for operational GHG emissions is 1,100 metric tons of CO_2 equivalents per year (MT CO_2e/yr). BAAQMD has also developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant GHG emissions. Screening criteria relevant to the project land use types are listed in Table 3.8-1, below.

LOCAL

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy (GHGRS)

Multiple goals and policies in the Envision San José 2040 General Plan regarding green building, transportation, water, and waste also serve to reduce GHG emissions (City of San José 2011). These policies are listed in Sections 4.3, "Air Quality," 4.6, "Energy," and 4.17, "Transportation" of this document. The only policy applicable to the project that directly addresses GHG emissions is:

- **Policy IP-10.2:** Use the Site Development permit process to implement both the appropriate zoning district development regulations as well as appropriate Envision General Plan policies. Design guidelines (including for GHG reduction) adopted by the City Council provide specific design standards for architectural and site review.

Additionally, the City developed a GHG Reduction Strategy in conjunction with the General Plan that aligns with the GHG reduction targets set by AB 32. The GHG Reduction Strategy identifies a target for the City to meet the plan efficiency threshold of 6.6 MT CO_2e/yr per service population (SP) for the year 2020. To achieve this target, the GHG Reduction Strategy establishes policies regarding built environment and energy, land use and transportation, and recycling and waste reduction, and also identifies City-sponsored initiatives.

The City's current GHG Reduction Strategy does not address meeting the requirements of SB 32 and the 2030 emission target. In absence of an adopted GHG reduction target for 2030 under SB 32, the City of San José has established a "substantial progress" threshold of 660 MT CO_2e/yr or efficiency metric of 2.6 MT CO_2e/yr per SP. This

bright-line threshold is consistent with the GHG reduction goals of SB 32 and EO B-30-15, and represents a 40 percent reduction of the 2020 threshold of 1,100 MT CO2e/yr.

Climate Smart San José

The City adopted Climate Smart San José in 2018, which aligns with the GHG reduction targets of the Paris Climate Agreement and sets ambitious goals for energy, water, transportation, and local jobs. Key strategies pertaining to energy include transitioning to renewable energy; making homes energy efficient; embracing new technology to enable clean, electric, and personalized mobility choices; making commercial buildings high-performance and siting them close to transit to lower water and energy use; and moving commercial goods efficiently.

City of San José Municipal Code

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

- Green Building Regulations for Private Development (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.11)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10, Part 15)
- California Building Energy Efficiency Standards and building reach codes (Chapter 24.12)

City of San José Council Policies

As described in Section 4.17, "Transportation," the City has adopted a new Transportation Analysis Policy, Council Policy 5-1. The policy establishes the thresholds for transportation impacts under the CEQA based on vehicle miles traveled (VMT) instead of levels of service (LOS). The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and thus, a reduction in GHG emissions. As described in Section 4.6, "Energy," the proposed project would be subject to City Council Policy 6-32, which establishes baseline green building standards for private sector new construction.

4.8.2 Environmental Setting

Certain gases in the earth's atmosphere, classified as greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. GHGs are responsible for "trapping" solar radiation in the earth's atmosphere, a phenomenon known as the greenhouse effect. Prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO_2), methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Human-caused emissions of these GHGs in excess of natural ambient concentrations are believed responsible for intensifying the greenhouse effect and leading to a trend of unnatural warming of the earth's climate, known as global climate change or global warming. Emissions of GHGs contributing to global climate change are attributable, in large part, to human activities associated with on-road and off-road transportation, industrial/manufacturing, electricity generation by utilities and consumption by end users, residential and commercial on-site fuel usage, and agriculture and forestry. Emissions of CO_2 are, largely, byproducts of fossil fuel combustion.

The quantity of GHGs in the atmosphere that ultimately result in climate change is not precisely known, but is enormous; no single project alone would measurably contribute to an incremental change in the global average temperature, or to global, local, or microclimates. From a CEQA standpoint, GHG impacts relative to global climate change are inherently cumulative.

Although there is strong scientific consensus that global climate change is occurring and is influenced by human activity, there is less certainty as to the timing, severity, and potential consequences of the climate phenomena. Scientists have identified several ways in which global climate change could alter the physical environment in California (CNRA 2012, DWR 2006, IPCC 2007). These include:

- increased average temperatures;

- modifications to the timing, amount, and form (rain vs. snow) of precipitation;
- changes in the timing and amount of runoff;
- reduced water supply;
- deterioration of water quality; and
- elevated sea level.

4.8.3 Discussion

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

Less than significant. Construction and operation of the proposed project would generate GHG emissions. Estimated levels of construction- and operation-related GHGs are presented below.

Construction

Construction activities such as site preparation, building construction, and paving would result in the generation of GHG emissions from the use of heavy-duty off-road construction equipment, haul trucks associated with materials transport, and vehicle use during worker commute. Project GHG emissions were calculated using the CalEEMod Version 2016.3.2 computer program. Modeling was based on project-specific information (e.g., number and type of equipment, hours of use per day, construction phase schedule, etc.) where available; reasonable assumptions based on typical construction activities; and default values in CalEEMod that are based on location. Project construction is estimated to generate a total of 57.7 MT CO_2e over the duration of construction activities. Refer to Appendix E for specific input parameters and modeling output results.

Neither the City nor BAAQMD have established a quantitative threshold or standard for determining whether a project's construction generated GHG emissions are significant. Through the process of acquiring building, utility, conditional use, and special use permits from the City, the project would be required to comply with the City's Construction and Demolition Diversion Program, which would reduce the amount of waste generated. The project would also be consistent with General Plan policies, including General Plan policy MS-13.1 (listed in Section 3.3, "Air Quality,") to reduce construction-related diesel emissions. Given compliance with the City's municipal code and General Plan polices, and the short-term nature of construction period the project would not generate a substantial amount of GHG emissions during construction.

Operation

According to BAAQMD's CEQA Air Quality Guidelines, projects below the applicable screening criteria shown in Table 3.8-1 would not exceed the 1,100 MT of CO_2e/year GHG threshold of significance (BAAQMD 2017a).

Table 4.8-1 Greenhouse Gas Screening Levels

Land Use Type	Operational GHG Screening Size (square feet)
Quality restaurant	9,000
Medical office building	22,000

Source: BAAQMD 2017a

As shown in Table 3.8-1, out of the two land use types applicable to the proposed project, the "quality restaurant" land use type has the lowest screening size of 9,000 square feet. The proposed project is a 7,000 square-foot single-story multi-tenant commercial building. The commercial building would be divided into four individual spaces and would accommodate a mix of uses including restaurant and medical office consistent with the CN Zoning District. Even if the entire 7,000 square-foot building dedicated to the "quality restaurant" land use type, the proposed project would be below the screening criteria levels, and thus, below the recommended threshold of 1,100 MT CO_2e/yr.

The City has established a "substantial progress" threshold of 660 MT CO_2e/yr. Operation of the proposed project would result in mobile-source GHG emissions associated with vehicle trips to and from the project (i.e., project-generated VMT); area-source emissions from the combustion of natural gas for space and water heating and operation of maintenance equipment; energy-source emissions from the consumption of electricity; water-source emissions from water use and the conveyance and treatment of wastewater; and waste-source emissions from the transport and disposal of solid waste. CalEEMod was used to predict GHG emissions from operation based on the project-specific data such as land use type, size, and trip generation rates from the Transportation Analysis (see Appendix E), and by using default values in CalEEMod based on the land use type. As shown in Table 3.8-2, annual net emissions resulting from operation of the proposed project are predicted to be 458 MT CO_2e/yr, which would not exceed the City's "substantial progress" threshold of 660 MT CO_2e/yr.

Table 4.8-2 Estimated Annual Project-Generated Operational Greenhouse Gas Emissions

Emission Source Category	Annual Greenhouse Gas Emissions (MT CO_2e/yr)
Area	<1
Energy	147
Mobile	301
Waste	3
Water	6
Total	**458**

Notes: MT CO_2e/yr = metric tons of carbon dioxide equivalents per year

Source: Appendix E

Additionally, the proposed project would comply with City Council Policy 6-32 to meet the LEED Applicable New Construction Checklist. The checklist contains criteria such as energy performance standards, renewable energy production, building-level energy metering, and water efficiency measures, which would reduce the project's operational phase energy consumption and related operational GHG emissions. Furthermore, in accordance with General Plan policies MS-2.3, MS-2.5, MS- 2.6, and MS-14.4, the proposed project would implement green building practices such to maximize energy efficiency and conservation and to maximize the use of renewable energy sources. Therefore, the project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment. Impacts would be **less than significant**.

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

Less than significant. BAAQMD's approach to developing a threshold of significance for GHG emissions is to identify the emissions level for which a project would not be expected to substantially conflict with existing California legislation adopted to reduce statewide GHG emissions. As discussed under criterion (a), GHG emissions associated with the proposed project would be below the recommended threshold of 1,100 MT CO_2e/yr. In addition, the project would conform to City Council Policy 6-32 to meet the LEED Applicable New Construction Checklist and would comply with General Plan policies regarding green building and energy efficiency. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulations adopted for the purpose of reducing GHG emissions. Impacts would be **less than significant**.

4.9 HAZARDS AND HAZARDOUS MATERIALS

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

4.9.1 Regulatory Setting

FEDERAL

Management of Hazardous Materials

Various federal laws address the proper handling, use, storage, and disposal of hazardous materials, as well as requiring measures to prevent or mitigate injury to health or the environment if such materials are accidentally released. The EPA is the agency primarily responsible for enforcement and implementation of federal laws and

regulations pertaining to hazardous materials. Applicable federal regulations pertaining to hazardous materials are primarily contained in Code of Federal Regulations (CFR) Titles 29, 40, and 49. Hazardous materials, as defined in the Code, are listed in 49 CFR 172.101. Management of hazardous materials is governed by the following laws.

- The Toxic Substances Control Act of 1976 (15 U.S. Code [USC] Section 2601 et seq.) regulates the manufacturing, inventory, and disposition of industrial chemicals, including hazardous materials. Section 403 of the Toxic Substances Control Act establishes standards for lead-based paint hazards in paint, dust, and soil.
- The Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) is the law under which EPA regulates hazardous waste from the time the waste is generated until its final disposal ("cradle to grave").
- The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (also called the Superfund Act or CERCLA) (42 USC 9601 et seq.) gives EPA authority to seek out parties responsible for releases of hazardous substances and ensure their cooperation in site remediation.
- The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499; USC Title 42, Chapter 116), also known as SARA Title III or the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), imposes hazardous materials planning requirements to help protect local communities in the event of accidental release.
- The Spill Prevention, Control, and Countermeasure (SPCC) rule includes requirements for oil spill prevention, preparedness, and response to prevent oil discharges to navigable waters and adjoining shorelines. The rule requires specific facilities to prepare, amend, and implement SPCC Plans. The SPCC rule is part of the Oil Pollution Prevention regulation, which also includes the Facility Response Plan rule.

STATE

Management of Hazardous Materials

In California, both federal and state community right-to-know laws are coordinated through the Governor's Office of Emergency Services. The federal law, SARA Title III or EPCRA, described above, encourages and supports emergency planning efforts at the state and local levels and to provide local governments and the public with information about potential chemical hazards in their communities. Because of the community right-to-know laws, information is collected from facilities that handle (produce, use, and store) hazardous materials above certain quantities.

The corresponding State law is Chapter 6.95 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory). The Department of Toxic Substances Control (DTSC), a division of Cal EPA, has primary regulatory responsibility over hazardous materials in California. As required by Section 65962.5 of the California Government Code, DTSC maintains a hazardous waste and substances site list for the State, known as the Cortese List.

The Porter-Cologne Water Quality Control Act established the State Water Resource Board (SWRCB) as well as the individual regional water quality control boards (RWQCBs), which are the lead agencies responsible for identifying, monitoring, and cleaning up hazardous materials sites.

Transport of Hazardous Materials and Hazardous Materials Emergency Response Plan

The State of California has adopted USDOT regulations for the movement of hazardous materials originating within the state and passing through the state; state regulations are contained in 26 California Code of Regulations (CCR). State agencies with primary responsibility for enforcing state regulations and responding to hazardous materials transportation emergencies are the California Highway Patrol and the California Department of Transportation (Caltrans). Together, these agencies determine container types used and license hazardous waste haulers to transport hazardous waste on public roads.

California has developed an emergency response plan to coordinate emergency services provided by federal, state, and local governments and private agencies. Response to hazardous materials incidents is one part of the plan. The plan is managed by the Governor's Office of Emergency Services, which coordinates the responses of other agencies in the project area.

California Fire Code

The California Fire Code is the primary means for authorizing and enforcing procedures and mechanisms to ensure the safe handling and storage of any substance that may pose a threat to public health and safety. The California Fire Code establishes minimum requirements to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings. The California Fire Code also contains requirements related to emergency planning and preparedness, fire service features, building services and systems, fire-resistance-rated construction, fire protection systems, and construction requirements for existing buildings, as well as specialized standards for specific types of facilities and materials. The City of San José Municipal Code adopts the California Fire Code by reference in Chapter 17.12, "City of San José Fire Code."

LOCAL

San Francisco Bay Regional Water Quality Control Board

San Francisco Bay RWQCB regulates discharges and releases to surface and groundwater in the project area. The RWQCB generally oversees cases involving groundwater contamination. Within the San Francisco Bay RWQCB, the Santa Clara County Department of Environmental Health (SCCDEH) handles most leaking underground storage tank cases, so the RWQCB may oversee cases involving other groundwater contaminants.

Santa Clara County Department of Environmental Health

SCCDEH is the local Certified Unified Program Agency. The SCCDEH conducts inspections, surveillances, or monitoring, or other purposes to protect the present and future public health and safety and the environment as provided in Chapter 6.5 and 6.8 of the California Health and Safety Code and Chapter 4 of Division 7 of the Water Code. SCCDEH's Hazardous Materials Compliance Division administers programs and regulates the storage of hazardous materials both above and below ground.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to hazards and hazardous materials, and are relevant to this analysis:

- Policy EC-6.1: Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, State and federal laws, regulations and guidelines.
- Policy EC-6.2: Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Require proper disposal of hazardous materials and wastes at licensed facilities.
- Policy EC-6.7: Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
- Policy EC-6.8: The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
- Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

- **Policy EC-7.2:** Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
- **Policy EC-7.11**: Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

4.9.2 Environmental Setting

Salem Engineering Group Inc., prepared a Phase I Environmental Site Assessment for the project site on October 16, 2019. The investigation is included as Appendix F.

HAZARDOUS MATERIALS SITES

The project site is not listed on any Federal, State and local regulatory agency databases pertaining to hazardous materials. The Conoco Phillips gasoline station located at 7022 Santa Teresa Boulevard, approximately 239 feet northwest of the project site, had two unauthorized releases of petroleum hydrocarbons which impacted "soil and groundwater" beneath the site. The site was assessed and remediated following each incident under the regulatory agency oversight and a "case closed" designation was issued on September 3, 2008 and September 4, 2015 by the Santa Clara Environmental Health Department.

HISTORIC USES

The project site was used for agricultural production between 1939 and 1974. The site was subsequently graded in preparation for the development of Santa Teresa Shopping Center. Since the early 1800's arsenic containing insecticides and organochlorine pesticides were applied to crops in the normal course of farming operations. Lead arsenate was extensively used up until the 1960's and organochlorine pesticides were used between the 1940's and 1980's. It is not uncommon to find residual agricultural chemicals in the soil of properties with an agricultural history in San José.

SCHOOLS

The project site is located within the Morgan Hill Unified School District (MHUSD 2020a). Los Paseos Elementary School and Martin Murphy Middle School are located within 0.25 mile of the project site.

AIRCRAFT HAZARDS

The Norman Y. Mineta San José International Airport is located approximately 12.5 miles north of the project site. The nearest airport is the Reid-Hillview Airport, located over 7 miles north of the project area. There are no private airstrips in the project area. The project site is not located within a designated Santa Clara County Airport Land Use Commission (ALUC) Airport Influence Area (ArcGIS 2019a).

WILDLAND FIRES

CAL FIRE has mapped FHSZs for the entire State. FHSZs are based on an evaluation of fuels, fire history, terrain, housing density, and occurrence of severe fire weather and are intended to identify areas where urban fires could result in catastrophic losses. FHSZs are categorized as: Moderate, High, and Very High. According to CAL FIRE's Fire

Resource Assessment Program FHSZ Geographic Information System data, the project site is not located within a FHSZ (ArcGIS 2019b).

4.9.3 Discussion

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

Less than significant. The proposed project would involve the use of hazardous materials during construction and routine maintenance. Required to compliance with relevant federal, State, and local regulations that require strict adherence to guidelines regarding the safe use, transportation, and disposal of hazardous materials would reduce the potential for humans or the environment to be affected by an accidental release of hazardous materials. Regulations that would be required of those transporting, using or disposing of hazardous materials include the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Hazardous Materials Transportation Act; Title 22; CCR Title 27, and California Fire Code, adopted by reference in City of San José Municipal Code Chapter 17.12. Therefore, the project would not create a significant hazard through the routine transport, use, or disposal of hazardous materials. Impacts would be less than significant.

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

Less than significant with mitigation incorporated. The project site is not listed on any federal, state and local regulatory agency databases pertaining to hazardous materials. However, as discussed in Section 4.9.2, "Environmental Setting," residual agricultural chemicals may be present in the soil of properties with an agricultural history in San José. Although the site has been graded before, there is still potential for pesticide contamination in soil that may be encountered during ground-disturbing project activities.

As discussed in Criterion (a) above, the proposed project would be required to comply with relevant federal, State, and local regulations that require strict adherence to guidelines regarding the safe use, transportation, and disposal of hazardous materials as well as ensuring the reduction of the potential for humans or the environment to be affected by an accidental release of hazardous materials. Enforcement of these regulatory standards would reduce or avoid the potential to create a significant hazard through reasonably foreseeable upset and/or accident conditions involving the release of hazardous materials into the environment. However, the potential for encountering pesticide contamination in site soils during construction activities could expose construction workers and future site users to residual agricultural soil contamination. Therefore, this impact would be potentially significant.

Mitigation Measure HAZ-1a: Soil Sampling

Prior to any demolition, issuance of grading permits, or development, shallow soil samples will be taken in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The result of soil sampling and testing will be provided to the City's Director of Planning, Building, and Code Enforcement or Director's designee for review.

Mitigation Measure HAZ-1b: Preparation of a Site Management Plan

If contaminants are found above the regulatory environmental screening levels, a Site Management Plan (SMP) shall be prepared and implemented (as outlined below) by a qualified hazardous materials consultant and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations or the contaminated portions of the site shall be capped beneath the planned development under the regulatory oversight of the Santa Clara County Department of Environmental Health (SCCDEH) or State Department of Toxic Substances Control (DTSC). The contaminated soil removed from the site shall be hauled

off-site and disposed of at a licensed hazardous materials disposal site. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with development activities and shall identify appropriate mitigation measures. The SMP shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review prior to issuance of any grading permits.

The SMP shall include, but is not limited to, the following:

- A detailed discussion of the site background;
- Preparation of a Health and Safety Plan (HSP);
- Notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction;
- On-site soil reuse guidelines based on the California Regional Water Quality Control Board (RWQCB), San Francisco Bay Region's reuse policy;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site water disposal facility;
- Soil stockpiling protocols.

Mitigation Measure HAZ-1c: Preparation of a Health and Safety Plan

If soils are found to be contaminated, all contractors and subcontractors at the project site shall develop a Health and Safety Plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. Prior to issuance of a grading permit, the HSP shall be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee and the Environmental Compliance Officer of the Environmental Services Department (ESD) and implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:

- Provisions for personal protection and monitoring exposure to construction workers;
- Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;
- Procedures for the safe storage, stockpiling, and disposal of contaminated soils;
- Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities; and
- Emergency procedures and responsible personnel.

Significance after Mitigation

Implementation of Mitigation Measures HAZ-1a, HAZ1-b, and HAZ-1cwould reduce the risk of accidental release of hazardous materials because soil samples would be taken to assess whether contamination is present. If present in concentrations above regulatory environmental screening levels, and SMP and HSP would be prepared and implemented to remediate the site and ensure worker safety and the health of future workers and visitors. Therefore, proposed project would result in a **less than significant impact with mitigation incorporated**.

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

Less than significant. Los Paseos Elementary School and Martin Murphy Middle School are located within 0.25 mile of the project site. The proposed project would involve the use of hazardous materials during construction and routine maintenance. However, compliance with relevant federal, State, and local regulations that require strict adherence to guidelines regarding the safe use, transportation, and disposal of hazardous materials would reduce the potential for humans or the environment to be affected by an accidental release of hazardous materials. Because such laws are

established to be protective of human health and the environment, compliance with applicable regulations is sufficient to ensure that any hazardous materials used during project construction and operation would not result in hazardous emissions within one-quarter mile of Los Paseos Elementary School and Martin Murphy Middle School.

In addition, enforcement of General Plan Policy EC-6.7 directs the City to review development projects that use hazardous materials and could impact existing schools before project approval. Therefore, the project would not emit hazardous emissions or acutely hazardous substances within 0.25 mile of an existing school. The impact would be **less than significant**.

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

No impact. The project site is not included on a list of hazardous materials sites. **No impact** would occur.

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

No impact. The project site is not located within a designated Santa Clara County Airport Land Use Commission (ALUC) Airport Influence Area. **No impact would occur.**

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less than significant. The proposed project would not alter the existing roadway system, construct barriers to emergency or other evacuation plans, and would not obstruct routes identified in the City of San José Emergency Operations Plan. Therefore, the proposed project would not physically interfere with an adopted emergency response plan or evacuation plan. The impact would be **less than significant**.

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

No impact. The project site is not located within a FHSZ. **No impact** would occur.

4.10 HYDROLOGY AND WATER QUALITY

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. Hydrology and Water Quality.				
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	☒	☐
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i) Result in substantial on- or offsite erosion or siltation;	☐	☐	☒	☐
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	☒	☐
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	☒	☐
iv) Impede or redirect flood flows?	☐	☐	☐	☒
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

4.10.1 Regulatory Setting

FEDERAL

National Pollutant Discharge Elimination System

The National Pollutant Discharge Elimination System (NPDES) permit program was established under the CWA to regulate municipal and industrial discharges to surface waters of the United States. NPDES permit regulations have been established for broad categories of discharges including point source waste discharges and nonpoint source stormwater runoff. Each NPDES permit identifies limits on allowable concentrations and mass emissions of pollutants

contained in the discharge. Sections 401 and 402 of the CWA contain general requirements regarding NPDES permits.

"Nonpoint source" pollution originates over a wide area rather than from a definable point. Nonpoint source pollution often enters receiving water in the form of surface runoff and is not conveyed by way of pipelines or discrete conveyances. Two types of nonpoint source discharges are controlled by the NPDES program: discharges caused by general construction activities and the general quality of stormwater in municipal stormwater systems. The goal of the NPDES nonpoint source regulations is to improve the quality of stormwater discharged to receiving waters to the maximum extent practicable. The RWQCBs in California are responsible for implementing the NPDES permit system.

National Flood Insurance Act

The Federal Emergency Management Agency (FEMA) is tasked with responding to, planning for, recovering from, and mitigating against disasters. The Federal Insurance and Mitigation Administration within FEMA is responsible for administering the National Flood Insurance Program (NFIP) and administering programs that aid with mitigating future damages from natural hazards.

FEMA prepares Flood Insurance Rate Maps (FIRMs) that delineate the regulatory floodplain to assist local governments with the land use planning and floodplain management decisions needed to meet the requirements of NFIP. Floodplains are divided into flood hazard areas, which are areas designated per their potential for flooding, as delineated on FIRMs. Special Flood Hazard Areas are the areas identified as having a one percent chance of flooding in each year (otherwise known as the 100-year flood). In general, the NFIP mandates that development is not to proceed within the regulatory 100-year floodplain, if the development is expected to increase flood elevation by 1 foot or more. The project site is not located within a FEMA delineated floodplain (FEMA 2020).

STATE

NPDES Construction Permit for Stormwater Discharges Associated with Construction Activity

The SWRCB adopted the statewide NPDES General Permit in August 1999. The state requires that projects disturbing more than 1 acre of land during construction file a Notice of Intent with the RWQCB to be covered under this permit. Construction activities subject to the General Permit include clearing, grading, stockpiling, and excavation. Dischargers are required to eliminate or reduce non stormwater discharges to storm sewer systems and other waters. A stormwater pollution prevention plan (SWPPP) must be developed and implemented for each site covered by the permit. The SWPPP must include best management plans (BMPs) designed to prevent construction pollutants from contacting stormwater and keep products of erosion from moving off-site into receiving waters throughout the construction and life of the project; the BMPs must address source control and, if necessary, pollutant control.

California Water Code

The California Water Code is enforced by the California Department of Water Resources (DWR). The mission of DWR is "to manage the water resources of California in cooperation with other agencies, to benefit the State's people, and to protect, restore, and enhance the natural and human environments." DWR is responsible for promoting California's general welfare by ensuring beneficial water use and development statewide.

Groundwater Management

Groundwater Management is outlined in the California Water Code, Division 6, Part 2.75, Chapters 1-5, Sections 10750 through 10755.4. The Groundwater Management Act was first introduced in 1992 as AB 3030, and has since been modified by SB 1938 in 2002, AB 359 in 2011, and the Sustainable Groundwater Management Act (SB 1168, SB 1319, and AB 1739) in 2014. The intent of the Acts is to encourage local agencies to work cooperatively to manage groundwater resources within their jurisdictions and to provide a methodology for developing a Groundwater Management Plan.

The Sustainable Groundwater Management Act of 2014 (SGMA) became law on January 1, 2015 and applies to all groundwater basins in the state (Water Code Section 10720.3). By enacting the SGMA, the legislature intended to provide local agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater within their jurisdiction (Water Code Section 10720.1).

Pursuant to the SGMA, any local agency that has water supply, water management, or land use responsibilities within a groundwater basin may elect to be a "groundwater sustainability agency" for that basin (Water Code Section 10723). The 2016 Groundwater Management Plan for the Santa Clara and Llagas Subbasins (GWMP) satisfies the objectives of the SGMA and outlines groundwater sustainability goals, and the strategies, programs, and activities that support those goals.

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to hydrology and water quality, and are relevant to this analysis:

- **Policy ER-8.1:** Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- **Policy ER-8.3:** Ensure that private development in San José includes adequate measures to treat stormwater runoff.
- **Policy ER-8.5**: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
- **Policy EC-5.16:** Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
- **Policy 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.

City of San José Municipal Code

Requirements for grading and excavation permits and erosion control are included in Chapter 17.10, "Building Code, Part 6 Excavation and Grading." The City Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Before issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval.

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

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

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

The City of San José's Post-Construction Hydromodification Management Policy 8-14 requires all new and redevelopment projects that create or replace 1 acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects are not required to include hydromodification controls for peak runoff under this policy if they do not create an increase in impervious surface over pre-project (existing) conditions.

4.10.2 Environmental Setting

The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. The shopping center is completely developed and surrounded by existing development. Given the developed nature of the project site, the site is relatively flat with elevations of about 211 feet above mean sea level. Runoff from the project site currently flows into the City's existing drainage system.

The project site does not contain any natural drainages or waterways. The nearest waterway is Coyote Creek, located over 1 mile east of the project site. The FIRMs issued by FEMA indicate that the project site is located within Zone D. Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D (FEMA 2020). The project site is not located within a coastal area. Therefore, tsunamis (seismic sea waves) are not considered a significant hazard at the site.

Static groundwater depths measured during geotechnical test borings encountered groundwater at a depth of approximately 19 feet below ground surface. Available groundwater depth records with the Department of Water Resources indicate, State Well No. 08S02E18L001M located approximately 1.25 mile northwest of the project site, reported a historical high groundwater depth of about 9 feet below ground surface in March 1941 and a most current groundwater depth of 20 feet below ground surface in September 2019 (Salem 2019).

4.10.3 Discussion

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

Less than significant. Project construction would require earthwork activities involving approximately 4,000 cubic yards of material, which could increase the potential for soil erosion and degrade water quality. Construction and post-construction activities would be required to adhere to various federal, State, and regional water quality standards, such as the Municipal Permit and Construction General Permit. As such, runoff volumes and pollutants leaving sites during construction and post-construction operations would be substantially reduced through source control, site design, and/or treatment-control BMPs mandated by these permits. Erosion and sediment controls identified in project-specific SWPPPs would substantially reduce the amount of soil disturbance, erosion, and sediment transport into receiving waters, and pollutants in site runoff during construction.

Enforcement of the City's NPDES General Permit, General Plan policies, and requirements for grading, excavation permits, and erosion control requirements in Chapter 17.10 of the San José Municipal Code would avoid or reduce excessive erosion. In addition, the City's Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Before issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the applicant is required to submit an Erosion Control Plan to the Director of Public Works for review and approval. Further, as part of the City's development approval process, the project would be required to comply with standard permit conditions:

<u>Standard Permit Condition</u>

The following text is included as a standard permit condition and would therefore be required to be implemented by the project:

Construction-related water quality

1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

5. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
6. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
7. Vegetation in disturbed areas shall be replanted as quickly as possible.
8. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
9. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Mandatory compliance with the City's adopted regulations and standard permit conditions would require the project to reduce runoff volumes and pollutants leaving sites during construction and post-construction operations. Therefore, the project would not result in substantial soil erosion that could degrade surface or groundwater quality. The impact would be less than significant.

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

Less than significant. The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. Given the developed nature of the project site, the area does not contribute to groundwater recharge. The proposed project would construct an approximately 7,116 square foot multi-tenant commercial building on the project site which would be consistent with the impervious nature of the area. However, the proposed landscape plan would add approximately 4,177 square feet of landscaped areas along the perimeter of the site. The addition of pervious surfaces to the project site would promote surface infiltration on the site and contribute to groundwater recharge.

Consistent with San José's Post-Construction Hydromodification Management Policy 8-14, the proposed project would not create an increase in impervious surface over pre-project (existing) conditions. In addition, the proposed project would not involve the direct extraction of groundwater supplies. (Potable water demands would be supplied by the Great Oaks Water Company, one of three water retailers that services the City.) Therefore, the proposed project would not decrease groundwater supplies or interfere with groundwater recharge. The impact would be less than significant.

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

i) Result in substantial on- or offsite erosion or siltation;

Less than significant. Project construction would require earthwork activities involving approximately 4,000 cubic yards of material, which could temporarily expose soils and increase the potential for soil erosion from wind or stormwater runoff. Enforcement of the City's NPDES General Permit, General Plan policies, and requirements for grading, excavation permits, and erosion control requirements in Chapter 17.10 of the San José Municipal Code would avoid or minimize the potential for excessive erosion. In addition, as part of the City's development approval process, the project would be required to comply with standard permit conditions:

Standard Permit Conditions

The following text is included as a standard permit condition, in addition to the text listed in Criterion (a) above, and would therefore be required to be implemented by the project:

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

Mandatory compliance with the City's adopted regulations and standard permit conditions would require the project to minimize erosion and loss of topsoil during construction. Therefore, the project would not result in substantial erosion or siltation. The impact would be **less than significant**.

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

Less than significant. Project construction would require earthwork activities involving approximately 4,000 cubic yards of material, which could temporarily expose soils and increase the potential for soil erosion from wind or stormwater runoff. Construction and post-construction activities would be required to adhere to various federal, State, and regional water quality standards, such as the Municipal Permit and Construction General Permit. As such, runoff volumes during construction and post-construction operations would be substantially reduced through source control, site design, and/or treatment-control BMPs mandated by these permits. Erosion and sediment controls identified in the SWPPPs would substantially reduce the amount of soil disturbance, erosion, and sediment transport into receiving waters, and pollutants in site runoff during construction.

In addition, the proposed landscape plan would add approximately 4,177 square feet of landscaped areas along the perimeter of the site. The addition of pervious surfaces to the project site would promote surface infiltration on the site. Therefore, the proposed project would not increase the rate or amount of surface runoff. The impact would be **less than significant**.

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

Less than significant. The proposed project would connect to the existing on-site storm drain system. Construction and post-construction activities would contribute runoff water to the City's stormwater drainage system. Enforcement of General Plan policies (listed above), would reduce the projects runoff water contribution. For example, Policy ER-8.1 directs the City to require development to manage stormwater runoff in compliance with City standards; Policy ER-8.5 directs the City to require development projects to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite; and Policy EC-5.16 directs the city to require development projects to implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project site.

Therefore, the proposed project would not 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. The impact would be **less than significant**.

iv) Impede or redirect flood flows?

No impact. The proposed project does not contain any natural drainages or waterways and is not located within a floodplain. **No impact** would occur.

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

No impact. The project site does not contain any natural drainages or waterways. The nearest waterway is Coyote Creek, located over 1 mile east of the project site. The FIRMs issued by FEMA indicate that the project site is located within Zone D. Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. In addition, the project site is not located within a coastal area. Therefore, tsunamis and seiches are not considered a significant hazard at the site. **No impact** would occur.

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

Less than significant. As described in Criterion (a), mandatory compliance with the City's adopted regulations and standard permit conditions would require the project to reduce runoff volumes and pollutants leaving sites during construction and post-construction operations.

In addition, the proposed project would not result in substantial population growth or employment growth that would increase water demand. Therefore, the proposed project would not conflict or obstruct implementation of a water quality control plan or sustainable groundwater management plan. The impact would be **less than significant**.

4.11 LAND USE AND PLANNING

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

4.11.1 Regulatory Setting

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to land use and planning, and are relevant to this analysis:

- 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-2.5: Integrate Green Building Goals and Policies into site design to create healthful environments. Consider factors such as shaded parking areas, pedestrian connections, minimization of impervious surfaces, incorporation of stormwater treatment measures, appropriate building orientations, etc.
- Policy CD-3.11: Encourage new development to connect with the surrounding community and continue the existing street grid to integrate with the neighborhood.
- Policy CD-5.1: Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
- Policy CD-8.1: Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/Transportation Diagram provide an indication of the typical number of stories expected for new development, however specific height limitations for buildings and structures in San José are not identified in the Envision General Plan.
- Policy MS-1.3: Continually update and strengthen the City's Green Building policies and ordinances for new construction and rehabilitation of existing buildings to provide flexibility for application of new technologies and innovative techniques that may develop in the green building field.

4.11.2 Environmental Setting

The project site is located in southern San José within the existing Santa Teresa Shopping Center. The project site is completely paved and serves as the parking lot for the shopping center. Development located adjacent to the shopping center includes commercial uses to the northwest, a church and single- and multi-family residential uses to

the northeast, Los Paseos Park to the southeast, and single-family residential uses to the east, multi-family residential uses to the south, and single-family residential uses to the west.

The project site is currently designated Neighborhood/Community Commercial (NCC) by the Envision San José 2040 General Plan. This designation supports a broad range of commercial uses, including commercial uses that serve the communities in neighboring areas, such as neighborhood-serving retail and services and commercial/professional office uses. A previously approved plan development permit, File No. PDC66-035, allows for CN Commercial Neighborhood District (CN) uses on the project site. The CN Zoning District is a district intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. The type of development supported by this district includes neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments.

4.11.3 Discussion

a) Physically divide an established community?

Less than significant. The proposed project would not result in development that would physically divide a community. Typically, division of an established community could result from the construction of a physical feature, such as a wall, interstate highway, airport, roadway, or railroad tracks, or the removal of a means of access, such as a local road or bridge that could impair mobility or constrain travel within an existing community, or between a community and outlying areas.

The proposed project would construct a commercial building within an existing shopping center consistent with the NCC land use designation and CN Zoning District. In addition, enforcement of General Plan Policy CD-3.11 directs the City to encourage development that connects with the surrounding community and continue the existing street grid to integrate with the neighborhood. Therefore, the proposed project would not result in construction of physical barriers that would change the connectivity between developed areas or physically divide an established community. The impact would be less than significant.

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?

No impact. Consistent with the NCC land use designation and CN Zoning District, the proposed project would construct a multi-tenant commercial development with mix of uses including restaurant and medical office. Therefore, the proposed project would not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigation an environmental effect. No impact would occur.

4.12 MINERAL RESOURCES

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

4.12.1 Regulatory Setting

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to mineral resources, and are relevant to this analysis:

- Policy ER-11.2: Encourage the conservation and development of SMARA-designated mineral deposits wherever economically feasible.

4.12.2 Environmental Setting

Pursuant to the Surface Mining and Reclamation Act of 1975 (CMARA), the State Mining and Geology Board has designated the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate materials. Neither the State Geologist nor the State Mining and Geology Board has classified other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. The project site is located approximately 9 miles south of the Communications Hill Area; therefore, the project is not located within a Mineral Resource Zone.

4.12.3 Discussion

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

No impact There are no mineral resources on the project site. Therefore, the proposed project would not result in the loss of availability of known mineral resources. No impact would occur.

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

No impact. The project site is currently designated NCC by the Envision San José 2040 General Plan which allows for a broad range of commercial uses. In addition, there are no mineral resources on the project site. Therefore, the proposed project would not result in the loss of availability of a locally important mineral recovery site. No impact would occur.

4.13 NOISE

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

4.13.1 Regulatory Setting

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to noise, and are relevant to this analysis:

- Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State, and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:
  - Exterior Noise Levels: The City's normally acceptable exterior noise level objective is 70 dBA L_{dn} or less for office buildings, business commercial, and professional offices.
- Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:
  - Cause the L_{dn} at noise sensitive receptors to increase by 5 dBA L_{dn} or more where the noise levels would remain "Normally Acceptable"; or
  - Cause the L_{dn} at noise sensitive receptors to increase by 3 dBA L_{dn} or more where noise levels would equal or exceed the "Normally Acceptable" level.
- Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City

considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

- Policy EC-2.3: Require new development to minimize continuous vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, including ruins and ancient monuments or building that are documented to be structurally weakened, a continuous vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A continuous vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. 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. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction. 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 will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

Municipal Code

The City's Municipal Code contains an ordinance that limits noise levels at adjacent properties. Chapter 20.40.600 states that sound pressure levels generated by any use or combination of uses on a property zoned Commercial or Public/Quasi-Public shall not exceed 55 dBA L_{max} at any property line shared with land zoned for residential use and to 60 dBA L_{max} at commercial property lines, except upon issuance and in compliance with a Conditional Use Permit.

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 am and 7:00 pm Monday through Friday unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

4.13.2 Environmental Setting

Sound is a mechanical form of radiant energy, transmitted by a pressure wave through a solid, liquid, or gaseous medium. Sound that is loud, disagreeable, unexpected, or unwanted is generally defined as noise. Noise is typically expressed in decibels (dB), which is a common measurement of sound energy. Definitions of acoustical terms used in this section are provided in Table 3.12-1.

Table 4.13-1 Acoustic Term Definitions

Term	Definition
Noise	Noise is generally defined as sound that is loud, disagreeable, unexpected, or unwanted.
Decibel (dB)	Sound levels are measured using the decibel scale, developed to relate to the range of human hearing. A decibel is logarithmic; it does not follow normal algebraic methods and cannot be directly summed. For example, a 65-dB source of sound, such as a truck, when joined by another 65-dB source results in a sound amplitude of 68 dB, not 130 dB (i.e., doubling the source strength increases the sound pressure by 3 dB). A sound level increase of 10 dB corresponds to 10 times the acoustical energy, and an increase of 20 dB equates to a 100-fold increase in acoustical energy.

Term	Definition
Equivalent Noise Level (L_{eq})	The average noise level during a specified time period; that is, the equivalent steady-state noise level in a stated period of time that would contain the same acoustic energy as the time-varying noise level during the same period (i.e., average noise level).
Maximum Noise Level (L_{max})	The highest instantaneous noise level during a specified time period.
Day-Night Noise Level (L_{dn})	The 24-hour L_{eq} with a 10-dB penalty applied during the noise-sensitive hours from 10 p.m. to 7 a.m., which are typically reserved for sleeping.
Community Noise Equivalent Level (CNEL)	Similar to the L_{dn} described above with an additional 5-dB penalty applied during the noise-sensitive hours from 7 p.m. to 10 p.m., which are typically reserved for evening relaxation activities.

Source: Caltrans 2013

Noise can be generated by many sources, including mobile sources such as automobiles, trucks, and airplanes and stationary sources such as activity at construction sites, machinery, and commercial and industrial operations. As sound travels through the atmosphere from the source to the receiver, noise levels attenuate (i.e., decrease) depending on ground absorption characteristics, atmospheric conditions, and the presence of physical barriers.

In typical noisy environments, changes in noise of 1 to 2 dB are generally not perceptible. However, it is widely accepted that people can begin to detect sound level increases of 3 dB in typical noisy environments. Further, a 5-dB increase is generally perceived as a distinctly noticeable increase, and a 10-dB increase is generally perceived as a doubling of loudness.

The existing noise environment within the project area is influenced primarily by transportation noise from local roadways such as the Santa Teresa Boulevard and Bernal Road. The Envision San José 2040 General Plan EIR found that traffic noise levels in this area range from 55 to 65 dBA L_{dn} (City San José 2011a).

GROUND VIBRATION

Vibration is the periodic oscillation of a medium or object with respect to a given reference point. Sources of vibration include natural phenomena (e.g., earthquakes, volcanic eruptions, sea waves, landslides) and those introduced by human activity (e.g., explosions, machinery, traffic, trains, construction equipment). Vibration sources may be continuous, such as factory machinery, or transient in nature, such as explosions.

The typical background vibration-velocity level in residential areas such as the project area is approximately 50 vibration decibels (VdB). Typical outdoor sources of perceptible ground vibration are construction equipment, steel-wheeled trains, and traffic on rough roads. If a roadway is smooth, the ground vibration is rarely perceptible. Constant or transient vibrations can weaken structures, crack facades, and disturb occupants (FTA 2006).

SENSITIVE RECEPTORS

Noise- and vibration-sensitive land uses are generally considered to include those uses for which noise exposure could result in health-related risks to individuals, as well as uses for which quiet is an essential element of their intended purpose. Residential dwellings are of primary concern because of the potential for increased and prolonged exposure of individuals to both interior and exterior noise levels. Additional land uses such as parks, historic sites, cemeteries, and recreation areas are also considered sensitive to increases in exterior noise levels. Schools, health care facilities, places of worship, hotels, libraries, and other places where low interior noise levels are essential are also considered noise- and vibration-sensitive land uses.

As discussed in Section 3.1, "Project Location and Physical Setting," the parcels adjacent to the project site include Los Paseos Park and single-family residential to the east, multi-family residential to the south, and single-family residential to the west (See Figure 3-2). The nearest residential uses to the project site are multi-family residences, approximately 180 feet south of the project site, across Santa Teresa Boulevard on Cypress Point Court.

AIRPORTS AND PRIVATE AIRSTRIPS

The nearest airport is the Reid-Hillview Airport, located over 7 miles north of the project area. There are no private airstrips in the project area.

4.13.3 Discussion

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards?

Less than significant.

Construction Noise

Construction equipment and activities would generate noise. Short-term construction noise would fluctuate depending on the type, number, and duration of usage of the construction equipment. The effects of construction noise largely depend on the type of construction activities occurring on any given day; noise levels generated by those activities; distances to noise sensitive receptors; potential noise attenuating features such as topography, vegetation, and existing structures; and the existing ambient noise environment in the receptor's vicinity. As discussed in Section 3.13.1, "Environmental Setting," the nearest residential uses to the project site are multi-family residences, approximately 180 feet south of the project site, across Santa Teresa Boulevard on Cypress Point Court.

Noise-intensive construction activities include site preparation, excavation, building construction, and paving. These activities would involve the use of heavy-duty construction equipment that would generate noise. Typical noise levels generated by various types of construction equipment likely to be used are identified in Table 3.12-2.

Table 4.13-2 Typical Equipment Noise Levels

Type of Equipment	Noise Level (L_{max}) at 50 feet
Asphalt Saw	90
Backhoe	80
Compressor (air)	80
Concrete Mixer Truck	85
Crane, Mobile	83
Excavator	85
Front-End Loader	85
Generator	82
Jackhammer	85
Paver	89
Pump	76
Roller	85
Trucks	84
Vibratory Compactor	80
Welder/Torch	73

Notes: Assumes all equipment is fitted with a properly maintained and operational noise control device, per manufacturer specifications. Noise levels listed are manufacture-specified noise levels for each piece of heavy construction equipment.

Source: FTA 2006

The most noise-intensive construction activity would be site preparation, as existing pavement will be removed for building foundation construction using construction equipment such as an asphalt saw. This noise analysis uses a conservative assumption that asphalt removal could involve the simultaneous use of an asphalt saw and front-end loader. Based on the information provided in Table 3.13-2 and accounting for typical usage factors of individual pieces of equipment along with typical attenuation rates, construction noise levels for asphalt removal were calculated to be 90.4 dB L_{max} and 86.4 dB L_{eq} at 50 feet (see Appendix G for detailed calculations). Construction noise levels at the nearest residential receptor are presented in Table 3.13-3, below.

Table 4.13-3 Modeled Project Construction Noise at Sensitive Receptors

Receptor	Distance	Maximum Noise Level (L_{max})	Average Noise Level (L_{eq})
Cypress Point Court Residences	180 feet	79.3 dB	75.3 dB

Source: See Appendix G

According to the City's General Plan, the project would be considered to have a significant impact if it involves substantial noise generating activities continuing for more than 12 months within 500 feet of a residence. The project has an anticipated construction schedule of 6 to 8 months. Therefore, construction of the proposed project is not anticipated to involve substantial noise generating activities continuing for more than 12 months. Furthermore, the proposed project would adhere to Chapter 20.100.450 of the Municipal Code which establishes allowable hours of construction within 500 feet of a residential unit between 7:00 a.m. and 7:00 p.m. Monday through Friday.

Thus, project construction would occur during daytime hours when people are generally less sensitive to noise impacts and may be at work. Therefore, the proposed project would not result in a substantial temporary increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards.

Operational Noise

The proposed project is located within an active commercial plaza. Existing noise sources include traffic noise, parking lot noise, human activity onsite, and noise from landscaping equipment. According to the Transportation Analysis (see AppendixB), peak-hour traffic volumes on Santa Teresa Boulevard near the project site are 1,493 vehicles during the a.m. peak hour and 2,648 vehicles during the p.m. peak hour. The project would result in up to 20 new trips during the a.m. peak hour and 52 new trips during the p.m. peak hour during the operational phase.

A doubling of the energy of a noise source, such as doubling of traffic volume, would increase the noise level by 3 dB. A change in noise levels of less than 3 dB is not typically perceived as a substantial change in noise levels by humans. Given that an additional 20 a.m. peak hour and 52 p.m. peak hour trips would not constitute a doubling of traffic volume, the proposed project would not cause a substantial change in long-term traffic noise levels.

The proposed project would not result in a substantial permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standards. Impacts would be **less than significant**.

b) Generation of excessive groundborne vibration or groundborne noise levels?

Less than significant. Ground vibration generated by construction equipment spreads through the ground and diminishes in magnitude with increases in distance. Construction-related ground vibration is normally associated with impact equipment such as pile drivers, jackhammers, and the operation of some heavy-duty construction equipment, such as dozers and trucks. The source of the highest level of vibration during project construction would be from loaded haul trucks. According to the Federal Transit Administration (FTA), vibration levels associated with loaded haul trucks are 0.076 in/sec PPV and 86 VdB at 25 feet.

The City's General Plan Policy EC-2.3 establishes a continuous vibration limit of 0.2 in/sec PPV to minimize the potential for cosmetic damage at buildings of normal conventional construction. Based on the FTA recommended procedure for applying a propagation adjustment to these reference levels, vibration levels from loaded haul trucks could exceed the continuous vibration limit of 0.2 in/sec PPV with respect to architectural damage to buildings of

normal conventional construction within 14 feet of project activities (See Appendix G). The nearest building is roughly 50 feet to the southeast of the project site where construction activities would occur; thus, structural damage would not occur.

To address the human response to groundborne vibration, the FTA set forth guidelines for maximum-acceptable vibration criteria for different types of land uses. For residential uses and buildings where people normally sleep, the maximum-acceptable vibration limit is 80 VdB (FTA 2006). Based on FTA's recommended procedure for applying a propagation adjustment to these reference levels, vibration levels from loaded haul trucks could exceed FTA's maximum acceptable level of 80 VdB with respect to human response within 40 feet of project construction activities (See Appendix G). The nearest residential structure is roughly 180 feet away from project construction activities; thus, the project would not expose persons to excessive groundborne vibration levels. Impacts would be **less than significant**.

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

No impact. As discussed in the environmental setting, there are no private airstrips within the vicinity of the project site and the nearest airport (Reid-Hillview Airport) is located over 7 miles north of the project area. Thus, the proposed project would not result in the exposure of people residing or working in the project area to excessive airport-related noise levels. **No impact** would occur.

4.14 POPULATION AND HOUSING

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

4.14.1 Environmental Setting

According to the California Department of Finance, the City's 2019 population was estimated to be 1,043,058 with a total of 335,887 housing units. The average number of persons per household is 3.20 (DOF 2019). Based growth projections in the Envision San José 2040 General Plan, the City could grow to 1.3 million people with a total of 429,350 households in 2035 (City of San José 2011).

The project site is completely paved and is located on the parcel that serves as the parking lot for the shopping center. There is no housing or employment centers located directly on the project site.

4.14.2 Discussion

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

Less than significant. The proposed project would result in development of a multi-tenant commercial building within an existing shopping center. No housing is proposed on-site.; therefore, the project would not directly or indirectly induce population growth. As discussed in Section 3.17, "Transportation," based on a ratio of one retail job per 400 square feet, the proposed 7,116 square foot multi-tenant commercial building would generate 18 retail jobs. The retail employees generated by the proposed project would likely be from the area and permanent, substantial relocation of retail workers would not be required. Therefore, the proposed project would not result in substantial population growth or employment growth. The impact would be less than significant.

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

No impact. The proposed project does not include new housing or changes to policies or regulations related to land use or residential zoning. Therefore, the proposed project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. No impact would occur.

4.15 PUBLIC SERVICES

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

4.15.1 Regulatory Setting

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to public services, and are relevant to this analysis:

- Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.
- Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces.
- Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

4.15.2 Environmental Setting

FIRE PROTECTION

Fire protection services for the project site are provided by the San José Fire Department (SJFD). SJFD currently has 33 fires stations that provide fire protection, fire rescue, and medical services. Station 27, located at 6027 San Ignacio Avenue, provides primary response services to the project site (SJFD 2020).

POLICE PROTECTION

Police protection services for the project site are provided by the San José Police Department (SJPD). SJPD headquarters is located at 201 West Mission Street and currently employs 1,400 sworn and non-sworn officers. Employees are assigned to one of four Bureaus comprised of 11 divisions with more than 50 specialized Units and assignments (SJPD 2020).

SCHOOLS

The project site is located within the Morgan Hill Unified School District (MHUSD 2020a). MHUSD serves approximately 8,500 students and operates six elementary schools (TK-5), two elementary/middle schools (K-8), one Dual Immersion magnet program (K-8), two middle schools (6-8), two comprehensive high schools (9-12), one continuation high school and a community adult school (MHUSD 2020b).

PARKS

The Department of Parks, Recreation and Neighborhood Services (PRNS) oversees approximately 3,537 acres of land which includes 197neighborhood parks, 9 regional parks, 101 ballfields, 6 pools, 17 community gardens, 50 community centers, and approximately 62 miles of scenic trails (PRNS 2019). Los Paseos Park is located directly to the southeast of the project site.

4.15.3 Discussion

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

Fire protection?

Less than significant. The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. SJFD Station 27 provides primary response services to the existing shopping center; therefore, development of the project site would not require SJFD to expand its current service area to meet potential fire service demands from retail employees generated by the project site. In addition, the proposed project does not include development of new residences and would not result in substantial population or employment growth. Therefore, the proposed project would not increase demand for fire protection services such that construction of new or expansion of existing fire protection facilities would be required. The impact would be less than significant.

Police protection?

Less than significant. The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. SJPD provides police protection services to the existing shopping center and surrounding development. Because the proposed project does not include development of new residences nor result in substantial

population or employment growth, it is reasonable to assume that the 18 retail employees generated by the project would not result in a substantial increase in the amount of crime in the project area. Therefore, the proposed project would not increase demand for police protection services such that the construction of new or expansion of existing police protection facilities would be required. The impact would be **less than significant**.

Schools?

No impact. The proposed project does not include development of new residences that would generate new students in the community. In addition, the retail employees generated by the proposed project would likely be from the area. Therefore, the proposed project would have **no impact** on school services and facilities.

Parks?

No impact. The proposed project does not include development of new residences that would generate new residents who would require new or expanded park facilities. In addition, the 18 retail employees generated by the proposed project are not anticipated to result in a substantial increase in demand on existing nearby parks and recreational facilities. Therefore, the proposed project would have **no impact** on parks.

Other public facilities?

No impact. The proposed project does not include development of new residences and would not result in substantial population or employment growth. Therefore, the proposed project would not result in an increase in demand for other public facilities, such as libraries and community centers. The project would have **no impact** on other public facilities.

4.16 RECREATION

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. Recreation.				
Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☒

4.16.1 Regulatory Setting

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to recreation resources, and are relevant to this analysis:

- Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
- Policy PR-1.8: Enhance existing parks and recreation facilities in built-out areas through new amenities and other improvements to ensure that residents' needs are being met.
- Policy VN-1.1: Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½-mile walking distance of schools, parks, and retail services.

4.16.2 Environmental Setting

The Department of Parks, Recreation and Neighborhood Services (PRNS) oversees approximately 3,486 acres of land which includes 187 neighborhood parks, 9 regional parks, 98 ballfields, 6 pools, 18 community gardens, 51 community centers, and approximately 60 miles of scenic trails. Amenities within the neighborhood parks include basketball courts, exercise courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts. (PRNS 2020). Los Paseos Park is located directly to the southeast of the project site.

4.16.3 Discussion

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

No impact. The proposed project would not increase the use of recreational facilities to the extent that substantial deterioration would occur. Typically, this impact occurs when a project induces population growth, such as a new

housing development or a business that would necessitate a large number of new employees. The project does not include construction of new housing and would not result in substantial population or employment growth. The number of retail employees generated by the project would be minimal and would not increase the use of recreational facilities to the extent that substantial deterioration would occur. Therefore, the proposed project would have **no impact** related to substantial physical deterioration of recreational facilities.

b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

No impact. The proposed project does not include development of residential communities or other similar types of development or induce population growth that would require construction or expansion of recreational facilities. Therefore, the proposed project would have **no impact** related to the construction or expansion of recreational facilities.

4.17 TRANSPORTATION

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

4.17.1 Regulatory Setting

STATE

Senate Bill 743

Senate Bill 743, passed in 2013, required the California Governor's Office of Planning and Research (OPR) to develop new CEQA guidelines that address traffic metrics under CEQA. As stated in the legislation, upon adoption of the new guidelines, "automobile delay, as described solely by level of service (LOS) or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the guidelines, if any."

In December 2018, OPR and the State Natural Resources Agency submitted the updated CEQA Guidelines to the Office of Administrative Law for final approval to implement SB 743. The Office of Administrative Law subsequently approved the updated CEQA Guidelines; thus, implementing SB 743 and making vehicle miles traveled (VMT) the primary metric used to analyze transportation impacts. However, local agencies have until July 1, 2020, to opt-in and implement the updated guidelines.

REGIONAL

Santa Clara County's Congestion Management Program

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

plan element. The VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to transportation, and are relevant to this analysis:

- **Policy TR-1.2:** Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
- **Policy TR-1.4:** Through the entitlement process for new development, projects shall be required to fund, or construct needed transportation improvements for all transportation modes, giving first consideration to improvement of biking, walking and transit facilities and services that encourage reduced vehicle travel demand.
- **Policy TR-2.8:** Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
- **Policy TR-3.3:** As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
- **Policy TR-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.

City of San José Council Policy 5-1

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

City of San José Bike Plan

The City of San José Bike Plan 2020 (Bike Plan), adopted in 2009, contains policies for guiding the development and maintenance of bicycle and trail facilities within San José. The Bike Plan also includes the following goals for improving bicycle access and connectivity: 1) complete 500 miles of bikeways, 2) achieve a 5 percent bike mode share, 3) reduce bicycle collision rates by 50 percent, 4) add 5,000 bicycle parking spaces, and 5) achieve Gold-Level Bicycle Friendly Community status. The Bike Plan defines a 500-mile network of bikeways that focuses on connecting off-street bikeways with on-street bikeways.

4.17.2 Environmental Setting

Hexagon Transportation Consultants Inc., prepared a Transportation Analysis (TA) dated January 28, 2020 to identify potential traffic impacts related to the project (Appendix B). The TA analyzed traffic impacts related to two different project scenarios: limited service restaurant and medical office. The TA includes an LTA (Local Transportation Analysis) and also provides peak-hour intersection operations analysis, vehicle queueing analysis at selected intersections, an evaluation of potential impacts to bicycle, pedestrian, and transit facilities, and a review of site access, on-site circulation, and parking demand. In addition, the City of San José Public Works department prepared Transportation Memorandum that supplements the information included in the TA (Appendix B).

ROADWAY NETWORK

Regional access to the project site is provided via SR 85 and US 101. Local access to the project site is provided via the following facilities:

- State Route 85: a six-lane freeway (two mixed-flow lanes and one high occupancy vehicle (HOV) lane in each direction) in the vicinity of the site. It extends from its starting point at Highway 101 in South San José westward and northward to Mountain View, where it ends as it again merges with Highway 101. Access to the project site is provided via its interchange with Bernal Road.
- Highway 101: an eight-lane freeway (three mixed-flow lanes and one HOV lane in each direction) in the vicinity of the project site. It extends northward through San Francisco and southward through Gilroy. Access to the project site is provided via an interchange at Bernal Road.
- Santa Teresa Boulevard: a six-lane arterial in the project vicinity. It extends north of Great Oaks Boulevard and south of Avenida Espana in the project vicinity. Santa Teresa Boulevard has a posted speed limit of 45 miles per hour (mph) in the project vicinity with sidewalks and bike lanes on both sides of the street. There is direct access to the project site from Santa Teresa Boulevard via the main driveway of the shopping center, across from Fairway Glen Lane. The driveway is limited to right turns only for outbound traffic with inbound left turns provided via the existing left-turn pocket on Santa Teresa Boulevard.
- Bernal Road: a six-lane arterial in the project vicinity. It extends from Harry Road in the west to the Highway 101 ramps in the east, where it becomes Silicon Valley Road. Bernal Road has a posted speed limit of 40 mph in the project vicinity with sidewalks and bike lanes on both sides of the street. Access to the project site is via its intersection at Santa Teresa Boulevard and the shopping center driveways on Bernal Road.

PEDESTRIAN AND BICYCLE FACILITIES

Pedestrian facilities are located along Santa Teresa Boulevard, Bernal Road, Martinvale Lane, and Chantilley Lane. Bicycle facilities, specifically Class II striped bike lanes, are located along Santa Teresa Boulevard and Bernal Road within the project vicinity. No other bike lanes or shared bike routes are located on the neighborhood streets in the immediate vicinity of the project site. However, the surrounding neighborhood streets, such as Martinvale Lane and Chantilley Lane, carry low traffic volumes and are conducive to bicyclists.

TRANSIT SERVICE

Existing bus service in the project area is provided by the Santa Clara Valley Transportation Authority (VTA). The study area is served directly by two bus routes (local route 68 and express route 182). The closest bus stop for these bus routes is on northbound Santa Teresa Boulevard in front of the project site. For the southbound direction, the closest bus stop is on Santa Teresa Boulevard north of Bernal Road, approximately 750 feet from the site.

EXISTING VEHICLE MILES TRAVELED

The existing vehicle miles traveled (VMT) for employment uses in the project vicinity is 14.93 per employee. The current regional average VMT for employment uses is 14.37 per employee. Therefore, the VMT levels of existing uses in the project vicinity are greater than the average and the project is located in a high-VMT area for employment uses.

4.17.3 Discussion

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

Less than significant. The project is located within the Santa Teresa/Bernal Urban Village, as such improvements enumerated in this Urban Village to the circulation system are applicable to the project. Although, the proposed

project will not alter the existing sidewalks and curbs along the project frontage on Santa Teresa Boulevard, it would add a pedestrian path that connects the sidewalks to the proposed building. Additional sidewalk improvements would replace and widen the existing sidewalks along the project site frontage to meet ADA compliance standards.

The project site is served directly by striped bike lanes on Santa Teresa Boulevard and Bernal Road. Future on-site employees and customers could utilize the bike lanes for recreational or commuting purposes. The project would provide 10 bicycle parking spaces in front of the proposed multi-tenant commercial building. The project would not remove any bicycle facilities, nor would it conflict with any adopted plans or policies for new bicycle facilities.

VTA's local bus route 68 and express route 182 run along Santa Teresa Boulevard and stop in front of the project site. The existing bus stop consists of a standard blue bus stop sign and a shelter with a bench. Because the project is located within the Santa Teresa/Bernal Urban Village, the project would provide improvements to promote transit service by widening existing sidewalks to meet ADA compliance standards. Since the project site is served directly by a local bus route, it is reasonable to assume that some on-site employees and customers would utilize the bus service. It is estimated that the small increase in transit demand generated by the proposed limited-service restaurant could be accommodated by the current available ridership capacity of the VTA bus service.

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

b) Conflict or be inconsistent with CEQA Guidelines section 15064.3(b), which pertains to vehicle miles travelled?

Less than significant with mitigation incorporated. The proposed multi-tenant commercial project could accommodate limited services restaurant uses or medical office uses, consistent with the NCC land use designation and the CN Zoning District. Accordingly, the VMT analyses evaluated the potential increase in VMT that could result from the proposed limited services restaurant uses or medical office uses at the project site.

Thresholds of Significance

The City of San José's Transportation Analysis Handbook includes screening criteria for projects that are expected to result in less-than-significant VMT impacts based on the project description, characteristics and/or location. Projects that meet the screening criteria do not require a CEQA transportation analysis.

For projects that do not meet the screening criteria, a project's VMT impact is determined by comparing the project VMT to the appropriate thresholds of significance based on the type of development. The threshold of significance for the Limited-Service Restaurant use is any net increase in existing regional total VMT, which is 14.37 per employee for the project site. The threshold of significance for Medical Office Use, is the regional average VMT per employee minus 15 percent, which calculates to 12.22 VMT per employee.

Project-VMT Impact Analysis

<u>Limited-Service Restaurant Use</u>

The City's Travel Demand Model was used to calculate the change in VMT resulting from the proposed limited-service restaurant at the Santa Teresa Village Shopping Center. The underlying premise is that the new restaurant would not cause an increase in trips but rather result in a change in trip making because some people would come to the proposed restaurant instead of other nearby restaurants. To estimate the impact on VMT with the model, the project's additional 7,116 square feet of building area was converted to 18 retail jobs, using a ratio of one retail job per 400 square feet. City staff identified three similar neighborhood shopping areas near the project site, located at the Cottle road/Great Oaks Parkway intersection, the Snell Avenue/Santa Teresa Boulevard intersection, and at the Snell Avenue/Blossom Hill Road intersection. These shopping areas are in TAZs 663, 678, and 549, respectively. It was assumed that some employees would leave their jobs at these nearby shopping centers and would go to work at the proposed restaurant instead.

Similarly, it was assumed that some customers would dine at the new restaurant, rather than eat at restaurants at the nearby shopping centers. To reflect this, 18 retail jobs (6 at each site) were removed from the TAZs where these three nearby shopping areas are located and added to the project TAZ. These job changes were then made in the 2015 land use file and the model was run, with and without the project. Restaurant trips are considered recreational and are reflected in the model as "social/recreational" trips. Daily VMT for work and social/recreational trips, with and without the project, were calculated for the affected TAZs.

The model results showed that the work trips would result in 27 more daily VMT and the social/recreational trips would result in a decrease of 6 daily VMT; therefore, the project would cause a net increase of 21 VMT per day. Accordingly, the project would result in a net increase in VMT above the existing regional total VMT. This could result in a potentially significant impact.

Medical Office Use

The VMT analysis for the medical office was conducted by converting vehicle trips generated by the medical office to an equivalent general office square footage, which calculates to 25,462 square feet of general office. The VMT that would be generated by the medical office building is estimated to be 14.71 daily miles per employee. The project VMT level would be lower than the area VMT for employment uses (14.93 per worker) in the project vicinity. This is because the project would result in an increase in development diversity and employment density. However, the project VMT would still exceed the threshold of 12.22 per employee for office developments and could result in a potentially significant impact.

Mitigation Measure TR-1

- Provide end of trip bike facilities. The project proposes to provide 10 short-term bicycle parking spaces (5 bike racks) next to the project building, which is more than the 3 required bicycle parking spaces.
- Provide commute trip reduction marketing and education for employees. This would educate and encourage employees the use of transit, shared rides, and active modes, therefore lowering the number of single occupancy vehicle trips.
- Provide a rideshare program. This would encourage employees to carpool with other employees and/or through ride-matching services, which help employees find other commuters traveling in the same direction.

Significance after Mitigation

Implementation of Mitigation Measure TR-1 would reduce the project VMT per employee by 1.24 for the Limited Service Restaurant Use, which would result in a net decrease in the total VMT. Similarly, the VMT generated by the Medical Office Use would be reduced to 12.19 VMT per employee which is below the 12.22 VMT per employee threshold of significance. In accordance with City regulations, the proposed project would be required to prepare a transportation demand management (TDM) plan (see Appendix B) to implement Mitigation Measure TR-1. Therefore, proposed project would result in a **less-than-significant impact with mitigation incorporated**.

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

Less than significant. The project site would be located between two existing shopping center driveways on Santa Teresa Boulevard. Outbound traffic from both driveways is restricted to right turns. Inbound left turns can be made at the south driveway (main driveway), but only right turns can be made at the north driveway for inbound traffic. It is expected that most project trips would access the site via the main driveway. The proposed site plan shows that the project would not alter either driveway, which are approximately 32 and 35 feet in width. Per City standards (City of San José Department of Transportation Geometric Guidelines), the driveway width with two-way traffic should be 26 feet.

On-site vehicular circulation was reviewed for the new parking provided for the proposed building, in accordance with City of San José design guidelines and generally accepted traffic engineering standards. The project would provide 90-degree parking spaces to the south and west sides of the proposed building with 2 two-way drive aisles accessing the parking spaces. The City's standard minimum width for two-way drive aisles is 26 feet wide where 90-

degree parking is provided. This allows sufficient room for vehicles to back out of the parking spaces. According to the proposed site plan, the two-way drive aisles measure between 23 and 25 feet wide.

Compliance with City standards would provide adequate space for vehicle access and circulation on the project site. Therefore, the proposed project would not substantially increase hazards due to a geometric design feature and the impact would be **less than significant**.

d) Result in inadequate emergency access?

Less than significant. The SJFD requires that all portions of the buildings are within 150 feet of a fire department access road and requires a minimum of 6 feet clearance from the property line along all sides of the building. The project would comply the requirements. The drive aisle directly south of the site that connects to the existing driveway on Santa Teresa Boulevard and the drive aisle directly east of the site that connects to the existing driveway on Bernal Road are designated as fire access lane for the project. Therefore, all areas of the proposed building would be within 150 feet of a fire access road. The impact would be **less than significant**.

NON-CEQA CONSIDERATIONS

In response to SB 743, which requires jurisdictions to stop using a Level of Service (LOS) measurement for CEQA transportation analysis by July 1, 2020, the City has adopted VMT as the new metric for identifying and mitigating transportation impacts within CEQA. The following discussion of project trip generation and LOS is therefore included for informational purposes only.

Project Trip Generation

Limited Service Restaurant Use Trip Estimates

Project trips were estimated using trip rates published in the Institute of Transportation Engineers' (ITE) Trip Generation Manual, 10th Edition. The trip generation rates for Fast-Food Restaurant (Land Code Use 930) were used for this project. A 9 percent trip reduction was applied to the trip generation estimate to account for non-vehicle mode share of the project area. A 44 percent pass-by trip reduction was applied to the p.m. peak-hour trips. With trip reductions, the project is estimated to generate 14 net new trips during the a.m. peak hour (9 inbound and 5 outbound) and 50 trips during the PM peak hour (27 inbound and 23 outbound).

Medical Office Use Trip Estimates

Trips that would be generated by the medical office were estimated using average trip rates published in the ITE Trip Generation Manual for a Medical-Dental Office (Land Use 720). A 5 percent trip reduction was applied to the trip generation estimate to account for non-vehicle mode share of the project area. By implementing VMT reduction strategies, the VMT level for the office development would be reduced from the existing level of 14.93 VMT per employee to 12.19 VMT per employee, which is an 18 percent reduction in VMT. The reduction was applied to the adjusted office trips (with location-based adjustment).

After applying appropriate trip reductions, the project alternative would generate 20 new trips (15 inbound and 5 outbound) during the a.m. peak hour and 20 new trips (6 inbound and 14 outbound) during the p.m. peak hour. Compared to the proposed limited service restaurant, the medical office is expected to generate a similar number of trips in the a.m. peak hour and fewer trips in the p.m. peak hour.

Intersection Traffic Operations

Based on the City of San José intersection operations analysis criteria, none of the signalized study intersections would be adversely affected by the limited service restaurant project. The medical office is expected to generate a similar number of trips as the proposed restaurant during the a.m. peak hour and fewer trips during the PM peak hour. With the proposed limited service restaurant, all of the study intersections would operate at LOS D or better. Therefore, with the medical office, the study intersections are expected to operate at an acceptable level of service.

At the unsignalized project driveway intersection on Santa Teresa Boulevard, because outbound traffic is restricted to right turns, the vehicle delay would continue to be short under both background and background plus project conditions. For the southbound (inbound) left-turn movement at the driveway, because the approved developments would substantially increase the northbound Santa Teresa Boulevard volume, which reduce the gap for the left-turn vehicles to make turns, the vehicle delay in the PM peak hour is estimated to degrade from LOS A under existing conditions to LOS F (LOS C in the a.m. peak hour) under both background and background plus project conditions. The project would add 37 southbound left-turn vehicles during the PM peak hour. Although the project is expected to increase the maximum vehicle queue for this left-turn movement by three vehicles in the PM peak hour, the storage pocket would be adequate to accommodate the maximum vehicle queue.

Note that the analysis conservatively assumes that most inbound project trips would enter the site via the left-turn pocket. The project traffic at the left-turn pocket could be lower as some of the eastbound Bernal Road traffic can enter the site via the shopping center driveway on Bernal Road just east of Santa Teresa Boulevard, and some of the southbound Santa Teresa Boulevard traffic can also access the site via the same driveway by turning left onto eastbound Bernal Road. Therefore, the driveway intersection would operate adequately and is not expected to experience issues associated with vehicle queuing or delay.

Vehicle Queuing Analysis

Vehicle queuing analysis was performed for left-turn movements at intersections where the project would add a noteworthy number of trips. The queuing analysis indicates that the estimated 95th percentile left-turn vehicle queue would exceed the vehicle storage capacity for the westbound left-turn movement from Bernal Road to Santa Teresa Boulevard under background conditions, and the project trips would increase the vehicle queue by just one vehicle. Lengthening this turn pocket to accommodate the estimated maximum vehicle queue length is not a feasible option because of the eastbound left-turn pocket at the Realm Drive/Bernal Road intersection. Note that although field observations confirm that the left-turn traffic occasionally fills the turn pocket, long green time is assigned to the movement to accommodate the high left-turn volume, and the left-turn queue clears within one signal cycle. There are two travel lanes provided for the low westbound through traffic on Bernal Road. Therefore, although the maximum left-turn queue would occasionally exceed the turn pocket storage, it is not expected to hinder the westbound traffic flow on Bernal Road.

Medical Office Use

With the medical office, the vehicle queuing condition is expected to be similar to the proposed limited service restaurant in the a.m. peak hour and better than the proposed limited service restaurant in the PM peak hour. The increased inbound trips during the a.m. peak hour would potentially lengthen the 95th percentile left-turn vehicle queue for the westbound left-turn movement from Bernal Road to Santa Teresa Boulevard, which was estimated to exceed the vehicle storage capacity under background conditions. However, as described above for the limited service restaurant, although the maximum left turn queue would occasionally exceed the turn pocket storage, it is not expected to hinder the westbound traffic flow on Bernal Road. During the PM peak hour, the medical office is estimated to generate fewer inbound and outbound trips. Therefore, the vehicle queuing condition is expected to be better than the queuing condition with the limited service restaurant.

Other Transportation Issues

The proposed site plan shows adequate site access and on-site circulation, and no significant operational issues are expected to occur as a result of the project. The project would not have an adverse effect on the existing pedestrian, bicycle, or transit facilities in the area.

Recommendations

- Reduce the driveway widths of the driveways adjacent to the site to 26 feet, per City standards (City of San José Department of Transportation Geometric Guidelines).
- The City's standard minimum width for two-way drive aisles is 26 feet where 90-degree parking is provided. The proposed two-way drive aisles would be between 23 and 25 feet wide. The project requires City approval for any proposed reduction in the standard drive aisle width.

4.18 TRIBAL CULTURAL RESOURCES

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. Tribal Cultural Resources.				
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?	☐	☐	☒	☐
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	☐	☐	☒	☐

4.18.1 Regulatory Setting

STATE

California Environmental Quality Act

CEQA requires public agencies to consider the effects of their actions on historical resources, unique archaeological resources, and TCRs. TCRs are evaluated in Section 3.18, "Tribal Cultural Resources." Pursuant to PRC Section 21084.1, a "project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." Pursuant to PRC Section 21084.2, a "project with an effect that may cause a substantial adverse change in the significance of a TCR is a project that may have a significant effect on the environment." Section 21083.2 requires agencies to determine whether projects would have effects on unique archaeological resources.

<u>Tribal Cultural Resources</u>

CEQA also requires lead agencies to consider whether projects will impact TCRs. PRC Section 21074 states the following:

a) "Tribal cultural resources" are either of the following:

   1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

      A. Included or determined to be eligible for inclusion in the CRHR.

      B. Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to tribal cultural resources, and are relevant to this analysis:

- **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 archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
- **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 their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
- **Policy ER-10.3:** Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.18.2 Environmental Setting

Native American people who originally inhabited the Santa Clara Valley belong to a group known as the "Costanoan" or Ohlone, who broadly occupied the central California coast from the northern tip of the San Francisco Peninsula to Big Sur in the south and as far east as the Diablo Range. Around 1770 (the time of first Spanish contact), there were two Costanoan subgroups in the area – the Tamyen (Tamien) in the north along the Guadalupe River and the Mutsun in the south along San Felipe Creek and the San Benito River. There are an estimated 1,400 or more people of partial, local Native American descent who currently reside in the greater San Francisco Bay Area (City of San José 2011).

AB 52, signed into law in September of 2014, established a new class of resources under CEQA: "tribal cultural resources," defined in PRC 21074. Pursuant to PRC Sections 21080.3.1, 21080.3.2, and 21082.3, where one or more California Native American Tribes has requested formal written notification of proposed projects from a lead agency, the lead agency shall begin consultation with those tribes by providing them with formal written notification of proposed projects before the release of an environmental impact report, negative declaration, or mitigated negative declaration. At the time of preparation of this Initial Study, no California Native American tribes that are or have been traditionally culturally affiliated with the project vicinity have requested notification from the City of San José.

4.18.3 Discussion

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

Less than significant. As discussed above, AB 52 consultation with those tribes by providing them with formal written notification of proposed projects before the release of an environmental impact report, negative declaration, or mitigated negative declaration. At the time of preparation of this Initial Study, no California Native American tribes that are or have been traditionally culturally affiliated with the project vicinity have requested notification from the City of San José. In addition, the project site has not been identified or listed as a TCR by the City of San José. Therefore, the impact would be less than significant.

4.19 UTILITIES AND SERVICE SYSTEMS

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIX. Utilities and Service Systems.				
Would the project:				
a) Require or result in the relocation or construction of construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	☒	☐
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐
c) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?	☐	☐	☒	☐
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	☒	☐
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

4.19.1 Regulatory Setting

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to utilities and service systems, and are relevant to this analysis:

- Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
- Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
- Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally

responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

- Policy MS-3.1: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
- Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
- Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
- Policy MS-8.16: Review and publicly report on the achievement of water conservation goals and policies on a regular basis to monitor and achieve success.
- Policy IN-3.3: Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
- Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's NPDES.
- Policy IN-19.1: Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply.

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

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

4.19.2 Environmental Setting

WATER SERVICE

The City is serviced by three water retailers, the San José Water Company (SJWC), the San José Municipal Water System (SJMWS), and the Great Oaks Water Company. The project site is serviced by Great Oaks Water Company (Arc GIS 2020). According to the 2015 Urban Water Management Plan, Great Oaks Water Company has adequate water supplies to meet demands during normal, single, and multiple dry years (Great Oaks Water Company 2015).

WASTEWATER

The San José-Santa Clara Regional Wastewater Facility (RWF) provides wastewater services to the project site. The RWF serves eight tributary sewage collection agencies and is administered and operated by the City's Department of Environmental Services. The RWF provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. On average, the RWF treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents. Sanitary sewer lines on the project site are inspected and maintained by the City's Department of Transportation and rehabilitated and replaced by the Department of Public Works (RWF 2020). The RWF has a daily capacity of to treat 167 million gallons per day (mgd) of wastewater with an average daily treatment of 110 mgd (City of San José 2014).

STORM DRAINS

The project site is located in an urbanized area of San José and serves as the parking lot for the shopping center. The shopping center is completely developed and surrounded by existing development. Runoff from the project site currently flows into the City's existing drainage system., which, in turn, flows into local creeks and the San Francisco Bay.

SOLID WASTE

The City has an existing contract with Newby Island Sanitary Landfill (Newby Landfill) through December 31, 2020 with the option to extend the contract as long as the landfill is open. The City has an annual disposal allocation for 395,000 tons per year. As of October 2014, Newby Landfill has approximately 21.2 million cubic yards of capacity remaining (CalRecycle 2020).

4.19.3 Discussion

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

Less than significant. The proposed project would connect to existing utility infrastructure on the project site. As discussed in Section 4.10, "Hydrology and Water Quality," Enforcement of General Plan policies would reduce the project site's runoff contribution. For example, Policy ER-8.1 directs the City to require development to manage stormwater runoff in compliance with City standards; Policy ER-8.5 directs the City to require development projects to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite; and Policy EC-5.16 directs the city to require development projects to implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project site.

In addition, the proposed project would not result in substantial population growth or employment growth that would require the expansion or construction of water infrastructure, wastewater treatment facilities, storm drainage facilities, electric power, natural gas, or telecommunications facilities to service the project. Therefore, the impact would be **less than significant**.

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

Less than significant. The project site is serviced by Great Oaks Water Company (Arc GIS 2020). According to the 2015 Urban Water Management Plan, Great Oaks Water Company has adequate water supplies to meet demands during normal, single, and multiple dry years. In addition, the proposed project would not result in substantial population growth or employment growth that would require a significant increase in water demand. Therefore, the impact would be **less than significant**.

c) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?

Less than significant. The proposed project would connect to existing sewer lines on the project site. Wastewater produced on the project site would be conveyed to the RWF for treatment. The RWF daily treatment capacity is 167 mgd, and on average the RWF treats 110 mgd of wastewater. Therefore, the RWF has adequate capacity to serve the projects projected demand. The impact would be **less than significant**.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less than significant. The proposed project would result in an incremental increase in solid waste generation. Based on the solid waste generation rate of 1.24 pounds generated per employee per day, outlined in the Envision San José 2040 Environmental Impact Report, the 18 retail employees could generate up to 4 tons of solid waste per year. This is a fraction of the City's annual disposal allocation of 395,000 tons per year and the Newby Landfill remaining capacity. Therefore, the proposed project would not result in an increase in solid waste requiring disposal in a landfill and would not impair the attainment of solid waste reduction goals. The impact would be **less than significant**.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Less than significant. Pursuant to the General Plan policies (listed above), the final project design would be required to comply with all federal, State, and local statutes and regulations related to solid waste disposal. The impact would be **less than significant**.

4.20 WILDFIRE

ENVIRONMENTAL ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XX. Wildfire.				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☒	☐
c) Require the installation of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	☒
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☒	☐

4.20.1 Regulatory Setting

LOCAL

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains the following polices that pertain to wildfire, and are relevant to this analysis:

- Policy EC-8.4: Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

4.20.2 Environmental Setting

CAL FIRE has mapped FHSZs for the entire State. FHSZs are based on an evaluation of fuels, fire history, terrain, housing density, and occurrence of severe fire weather and are intended to identify areas where urban fires could result in catastrophic losses. FHSZs are categorized as: Moderate, High, and Very High. According to CAL FIRE's Fire Resource Assessment Program FHSZ Geographic Information System data, the project site is not located within a Non-FHSZs (ArcGIS 2019).

4.20.3 Discussion

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

Less than significant. The proposed project would not alter the existing roadway system, construct barriers to emergency or other evacuation plans, and would not obstruct routes identified in the City of San José Emergency Operations Plan. Therefore, the proposed project would not physically interfere with an adopted emergency response plan or evacuation plan. The impact would be less than significant.

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?

Less than significant. The project site is not located within a FHSZ and the existing land uses preclude factors such as slopes or strong winds from exacerbating wildlife risk. The topography of the surrounding area is generally flat and dense development prevents strong winds. Therefore, the proposed project would not exacerbate wildfire risk. The impact would be less than significant.

c) Require the installation 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?

No impact. The proposed project would not alter the existing roadway system, construct fuel breaks, or require the installation or maintenance of infrastructure that could exacerbate wildfire risk. No impact would occur.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less than significant. The project site is not located within a FHSZ and the existing land uses preclude factors such as slopes or strong winds from exacerbating wildlife risk. The topography of the surrounding area is generally flat and dense development prevents strong winds. Given the highly urbanized nature of the project site and the surrounding areas, post-fire impacts such as drainage changes and landslides would not occur. The impact would be less than significant.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

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

4.21.1 Discussion

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

Less than significant. As discussed in Section 4.4, "Biological Resources," implementation of Mitigation Measure BIO-1 would reduce impacts associated with nesting habitat for bird species protected by the MBTA to a less than significant level by requiring construction to be scheduled outside of the nesting season and preparation of pre-construction surveys for nesting raptors and other migratory breeding birds. Furthermore, adherence to the City's General Plan policies and local, State, and federal regulatory standards would ensure a less than significant impact to wildlife habitat and special-status species.

As discussed in Section 4.5, "Cultural Resources," the proposed project could disturb previously unrecorded archaeological resources, if present on the project site, during ground disturbing activities. Mandatory compliance with the City's standard permit conditions would reduce impacts to less-than-significant levels requiring the performance of professionally accepted and legally compliant procedures for the discovery of previously undocumented archaeological resources.

As discussed in Section 4.18, AB 52 consultation with those tribes by providing them with formal written notification of proposed projects before the release of an environmental impact report, negative declaration, or mitigated negative declaration. At the time of preparation of this Initial Study, no California Native American tribes that are or have been traditionally culturally affiliated with the project vicinity have requested notification from the City of San José. In addition, the project site has not been identified or listed as a TCR by the City of San José. Therefore, the impact would be less than significant.

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

Less than significant. As identified in this Initial Study checklist, the proposed project would construct a multi-tenant commercial building on a paved parking lot that is surrounded by commercial development. Given the nature of the project, the proposed project would not significantly contribute to cumulative impacts. In addition, as discussed in Section 4.3, "Air Quality," and Section 4.8, "Greenhouse Gas Emission," the proposed project would not contribute to the overall regional and global emissions. Therefore, the proposed project would not result in any adverse environmental impacts that are cumulatively considerable. Impacts would be less than significant.

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

Less-than-significant impact . As identified in this Initial Study checklist, potentially significant impacts associated with the proposed project would be reduced to a less-than-significant level with mitigation. Therefore, the proposed project would not result in substantial adverse effects on human beings, either directly or indirectly. This impact would be less than significant.

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No references were used.

2 Project Information

No references were used.

3 Project Description

No references were used.

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6 REPORT PREPARERS

CITY OF SAN JOSÉ

Meenaxi Raval ..... Supervising Environmental Planner

Rhonda Buss ..... Planner

Jessica Donald ..... Environmental Services Department

Geoff Blair ..... Environmental Services Department

ASCENT ENVIRONMENTAL

Mike Parker ..... Principal

Claudia Garcia ..... Project Manager/Environmental Planner

Angie Xiong ..... Assistant Project Manager/Air Quality, Climate, and Noise Specialist

Michele Mattei ..... Publications

Phi Ngo ..... GIS Analysis and Mapping

Corey Alling ..... Graphics

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