

Initial Study

1103 Curtner Ave Redevelopment Project

*1103 Curtner Ave,
San Jose, California 95125*

PROJECT FILE NO.: CP11-041

July 2020

Prepared for:



City of San Jose
200 East Santa Clara Street
Tower, 3rd Floor
San José, CA 95113-1905

In Consultation With:



Antea® Group
505 14th Street, Suite 900
Oakland, CA 94612

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Initial Study

1103 Curtner Ave Redevelopment Project

1103 Curtner Ave, San Jose, California 95125

1.0 Introduction

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José as the Lead Agency has prepared this Initial Study *for 1103 Curtner Avenue Redevelopment Project* located at 1103 Curtner Ave, San Jose, California, in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City of San José, California. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 PUBLIC REVIEW PERIOD

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

City of San José
Department of Planning, Building, and Code Enforcement
Kara Hawkins, Environmental Planner
Kara.hawkins@sanjsoeca.gov
(408) 535-7852

1.3 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

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

1.4 NOTICE OF DETERMINATION

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

2.0 Project Information

2.1 PROJECT TITLE

1103 Curtner Avenue Redevelopment Project

2.2 LEAD AGENCY CONTACT

Kara Hawkins
Department of Planning, Building, and Code Enforcement
City of San José
(408) 535-7852

2.3 PROJECT PROPONENT

Barghausen Consulting Engineers, Inc., on behalf of Salkhi Petroleum

2.4 PROJECT LOCATION

1103 Curtner Avenue, San Jose, California (APN 439-08-068)

2.5 PROJECT-RELATED APPROVALS, AGREEMENTS AND PERMITS

- Conditional Use Permit
- Tree Removal Permit
- Public Work Clearance: Grading Permit(s)
- Building Clearance: Demolition Permit(s), Building Permit(s)

3.0 Project Description

3.1 BACKGROUND

The Site is currently an inactive retail convenience store and fuel dispensing facility located at the northeast corner of Lincoln Ave and Curtner Ave in San José, California. Current site facilities include an inactive station building, four inactive fuel dispensers and two 20,000-gallon inactive gasoline underground storage tanks (USTs). The areas north and northeast are developed for multi-tenant commercial retail. Towards east of the Site is reserved for commercial use, south is also developed for commercial retail in addition to single family residences. Directly west of the Site is a park.

3.2 PROJECT DESCRIPTION

The proposed project includes the redevelopment of an inactive gas station located at 1103 Curtner Avenue in San Jose, CA (Figure 1). The redevelopment of the site consists of: demolition of fueling canopy and inactive fuel dispensers, construction of a 1,708 square foot fueling canopy over 3 multi-product dispensers, one of which will be dispensing diesel, and an addition of one 20,000-gallon underground storage tank on a 0.75 gross acre site (Figure 2). Currently there is a 2,210 square foot convenience store that will remain with some interior tenant improvements. There are two existing 20,000-gallon underground storage tanks that will be re-used. The resulting storage tank capacity will include the following:

	Existing Tank 1	Existing Tank 2		New Tank 3	
	Compartment 1	Compartment 1	Compartment 2	Compartment 1	Compartment 2
Nominal Storage Capacity (gallons)	20,000	12,000	8,000	10,000	10,000
Actual Storage Capacity (gallons)	19,951	11,873	8,000	10,180	10,369

	Existing Tank 1	Existing Tank 2		New Tank 3	
	Compartment 1	Compartment 1	Compartment 2	Compartment 1	Compartment 2
Length (ft) x diameter (ft)	37'-5" x 10'-4"	12/8 Split Tank Overall: 39'-3" x 10'4"		10/10 Split Tank Overall: 39'-3" x 10'-4"	
Product stored in each tank	Regular Unleaded Gasoline	Premium Unleaded Gasoline	Diesel Fuel	Regular Unleaded Gasoline	E-85 Ethanol (alcohol/gasoline blend)

The convenience store will have a 24-hour operation for 7 days a week. The original gas station lay out will resemble a similar lay out except there will be 2, instead of 4, driveways to allow cars to enter and exit on the northeast corner of the site on Lincoln Avenue and one at the southwest corner of the site on Curtner Avenue. Parking is proposed as 12 spaces for the convenience store as well as one air and water station provided remote from the fuel dispensers. The employees that own an automobile will park on site, those without, will be dropped off or take public transportation. The site is bounded by multi-tenant commercial retail to the north, Lincoln Park to the west, Curtner Avenue to the south and Lincoln Ave to the west.

4.0 Initial Study

PROJECT FILE NO.: CP11-041

PROJECT DESCRIPTION:

The proposed project includes destruction of a pump island canopy and 4 fuel dispensers at the inactive gas station located at 1103 Curtner Ave, San Jose, CA. The redevelopment of the site consists of construction of a 1,708 square foot fueling canopy, two multi-product dispensers, 1 multi-product dispenser with diesel, air and water stations and 12 parking spots on a 0.75 gross acre site. Currently there is a 2,210 square foot convenience store that will remain with some interior tenant improvements. The site is bounded by commercial uses to the east, north and south, and Lincoln Glen Park to the west. The convenience store and canopy (gas) will have a 24-hour operation for 7 days a week. Parking is proposed as 12 spaces for the convenience store including one Americans with Disabilities Act (ADA) space, one electric vehicle space, two vacuum spaces, and 6 spaces at the fueling dispensers. The employees that own an automobile will park on site, those without, will be dropped off or take public transportation.

Figure 1 – Vicinity Map



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend


1103 Curtner Ave

Parcel

FIGURE 1

Site Vicinity Map
2375 Quimby Road
San Jose, CA

PROJECT NO. 200106230A	PREPARED BY MB	REF SCALE 1:1,800
DATE 3/24/2020	REVIEWED BY PM	MAP SCALE 1 inch = 150 feet

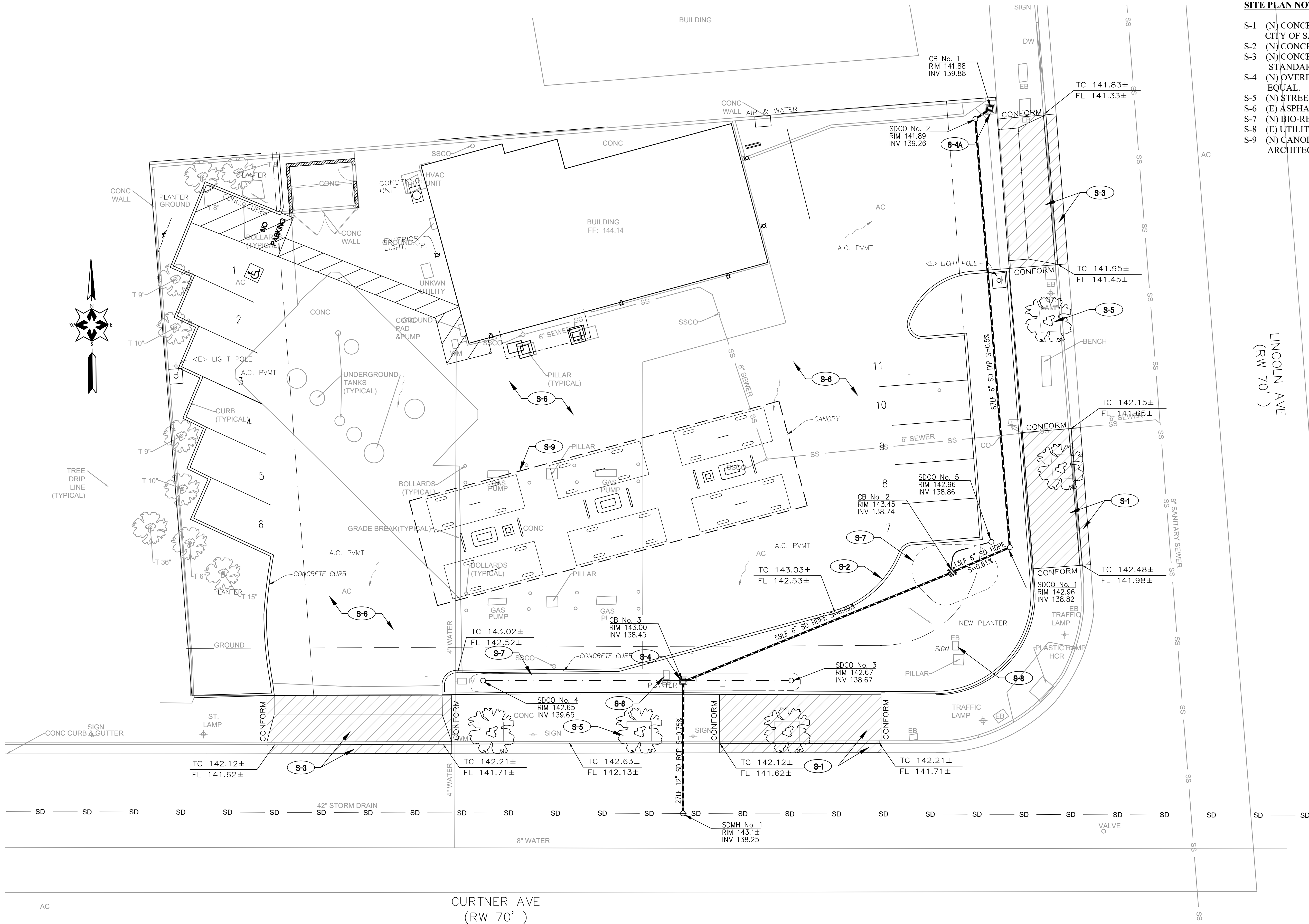


anteagroup

0 50 100 150 300 450 600 Feet

N

Figure 2 – Site Plan

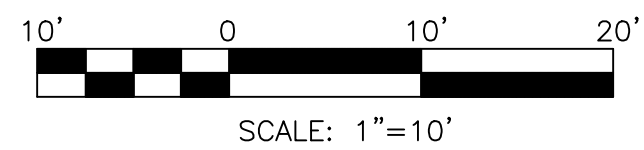


CURTNER AVE
(RW 70')

SITE PLAN

SCALE: 1" = 10'-0"

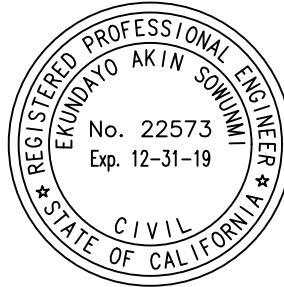
1



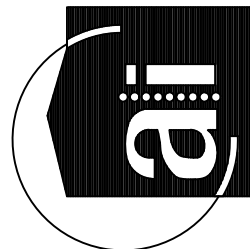
SITE PLAN NOTES

- S-1 (N) CONCRETE CURB, GUTTER AND SIDEWALK PER CITY OF SAN JOSE CITY STANDARD DETAIL R-2.
- S-2 (N) CONCRETE CURB, PER DETAIL 3/C5.0.
- S-3 (N) CONCRETE DRIVEWAY. PER CITY OF SAN JOSE CITY STANDARD DETAIL R-6.
- S-4 (N) OVERFLOW RISER, CHRISTY V12 OR APPROVED EQUAL.
- S-5 (N) STREET TREE, TYPICAL OF 5.
- S-6 (E) ASPHALT OR PORTLAND CEMENT CONCRETE.
- S-7 (N) BIO-RETENTION BASIN.
- S-8 (E) UTILITY BOXES TO BE ADJUSTED TO FINISH GRADE.
- S-9 (N) CANOPY, PUMPS AND CONCRETE SLAB. REFER TO ARCHITECTURAL DRAWINGS.

SEAL:



ACKLAND
INTERNATIONAL, INC.
333 Hegenberger Road, Suite 206
Oakland, CA 94621
510.564.4284 (tel)
510.633.2431 (fax)



PROJECT NAME:
FUELING FACILITY
1103 CURTNER AVENUE
SAN JOSE, CA

CLIENT NAME & ADDRESS:
SALKHI PETROLEUM
2145 MENDOCINO AVENUE
SANTA ROSA, CA 95401

NO.	DATE	DESCRIPTION	BY	DS
1	10/09/19	PERMIT APPLICATION		

SHEET TITLE
SITE PLAN

PROJECT NO. S19030

DRAWN BY: DS

CHECKED BY: ES

SCALE: AS SHOWN

DATE: 09/15/2019

SHEET NO.
C1.0
of 7

PROJECT LOCATION: 1103 Curtner Avenue, California 95125 (APN:439-08-068)

GENERAL PLAN DESIGNATION: NCC Neighborhood/ Community Commercial

Zoning District: CP Pedestrian Commercial

SURROUNDING LAND USES/GENERAL PLAN/ZONING:

North: Alpine Electrics and Bliss Hookah Lounge (Commercial)

South: Former Ace Hardware Store (Commercial)

East: Amerismog (Commercial)

West: Lincoln Glen Park

LEAD AGENCY CONTACT:

Kara Hawkins, Environmental Planner

Department of Planning, Building, and Code Enforcement

City of San José

(408) 535-7658

PROJECT APPLICANT'S NAME AND ADDRESS: Arash Salkhi of Salkhi Petroleum:

Salkhi Petroleum

PO Box 1698

San Leandro, California

asalkhi@salkhi.com

PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS:

- Conditional Use Permit
- Tree Removal Permit
- Public Work Clearance: Grading Permit(s)
- Building Clearance: Demolition Permit(s), Building Permit(s)

EVALUATION OF ENVIRONMENTAL IMPACTS

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

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

The discussion for each environmental subject includes the following subsections:

- **Regulatory Framework** – This subsection discusses all applicable federal, state, regional and local policies for each source of environmental impact.
- **Environmental Setting** – This subsection discusses the environmental setting and establishes what already exists as it pertains to the resource of interest.
- **Environmental Checklist** – The environmental checklist, as recommended by California Environmental Quality Act (CEQA), identifies environmental impacts that could occur if the Proposed Project is implemented. The right-hand column of the checklist lists the source(s) for the answer to each question. The sources are identified at the end of this section.
- **Impact Discussion** – This subsection discusses the project’s impact as it relates to the environmental checklist questions. Mitigation measures are identified for all significant project impacts. Mitigation Measures are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370).

IMPORTANT NOTE TO THE READER

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

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

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

4.1 AESTHETICS

REGULATORY FRAMEWORK:

Federal and State

State Scenic Highways Program

The State Scenic Highways Program¹ is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no state-designated scenic highways in San José. SR 280 from the San Mateo County line to SR17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.

¹ State of California. *Streets and Highway Code, Sections 260 through 263* (Scenic Highway Programs).

Local

City of San José General Plan Policies

Various policies in the City's General Plan² have been adopted for the purpose of avoiding or mitigating visual and aesthetic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the visual and aesthetic policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

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-1.8: Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.

Policy CD-1.13: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

In addition to the policies of the San José General Plan, future development allowed by the proposed land use designations would be required to comply with the following City policies and guidelines:

- San José Outdoor Lighting Policy³, which promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.
- San José Residential Design Guidelines⁴, including the following guidance:
 - Scenic Views: While walls and fences can be used to provide security, privacy, sound attenuation, and control of views, these same goals can often be achieved by other means... Fences and walls should be no more than 7 feet high, except when adjacent to freeways, expressways, railroads, incompatible uses, or when they are required for sound attenuation.
 - Surrounding Land Uses: Commercial uses within mixed use projects should be of the variety that directly serve and support the surrounding neighborhood and or promotes pedestrian traffic or public transit. The design of mixed-use buildings requires special care to accommodate and reflect the diverse uses; to visually integrate the whole; and to present an appropriately urban facade to the street and surrounding community. The scale of mixed-use buildings should reflect the scale of existing or planned surroundings.

EXISTING AESTHETICS

The Site is currently an inactive retail convenience store and fuel dispensing facility located at the northeast corner of Lincoln Ave and Curtner Ave in San José, California. Current site facilities include an inactive station building, 2,210 square foot convenience store, four inactive fuel dispensers and a fueling canopy. The southeast corner of the site bounded by the intersection of Lincoln Ave and Curtner Ave is a sign within the corner planter. The entire site is fenced off, inaccessible to the public. The inactive convenience store is locked is mostly empty and boarded up to prevent entering. Some litter and debris exist on the site due to loitering. The areas north and northeast are developed for multi-tenant commercial retail. Towards east of the Site is reserved for

² City of San José. *Envision San José 2040 General Plan*. May 2018.

³ City of San José. *Outdoor Lighting Policy* (City Council Policy 4-3).

⁴ City of San José. *Residential Design Guidelines*. 1997

commercial use, south is also developed for commercial retail in addition to single family residences. Directly west of the Site is a park.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,3
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,4
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 point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,3
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

FINDINGS:

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

Scenic resources in San José include the broad sweep of the Santa Clara Valley, the hills and mountains that frame the Valley floor, the bay lands and the urban skyline itself, particularly high-rise development. However, the Project itself consists of renovation an old gas station. The original gas station was constructed in 1960, however due to recent construction events such as in 2012 when a convenience store was added and in August 2013 when an installation of a new underground storage tank system was installed, no structures from the original gas station currently exist. The Subject Property is located in a developed area and bounded by existing development on all sides. The Subject Property is not located in an area considered to be a scenic vista per the City's Scenic Corridors Diagram. Additionally, the Project Site is not located along a Caltrans-designated scenic highway or City of San José scenic gateway. Due to its location on the valley floor and surrounding development, views of the project site are limited to the immediate area. Views of the foothills and nearby open space preserves from the project site are obstructed by existing development.

(No Impact)

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

The project site is not located along or within the City or State-designated scenic highway. Additionally, there are no rock outcroppings or historic resources on-site and no trees are proposed to be removed.

(Less than significant impact)

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 point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The proposed Project includes the replacement and renovation of an inactive gas station, canopy, fuel dispensing system, and automobile vacuum service island. However, the proposed project would redevelop the existing gas station located on the site, and thus will not cause a significant change in the existing visual character or quality of the site and its surroundings. Due to the commercial uses of the surrounding area, the Project is not expected to significantly degrade the existing visual character of the area. Visual effects of the Project would be minimized by the following: 1) conformance with the City of San Jose's Commercial Design Guidelines and 2) design review to ensure scale and mass are compatible with the surrounding neighborhood. The Project has altered the existing visual character of the Subject Property and its surroundings by upgrades to the existing fueling area canopy and the four dispensing pumps, parking reconfiguration, and the proposal of the replacement of an existing palm tree with a few other trees. As part of the proposed approvals, the driveway entries along both Curtner Avenue and Lincoln Avenue closest to the intersection would be closed as required by the City's Public Department, and one ordinance sized palm tree will be removed and replaced with five new street trees.

(No Impact)

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

Due to proposed 24-hour operation of the gasoline service station, exterior building and parking lot lighting associated with the new development would likely create an increase in the amount of nighttime lighting than the existing land use on the site; however, it would not adversely affect views in the area. Exterior lighting would be provided for the existing commercial building in accordance with the City's Outdoor Lighting Policy (4-3). The Project does not propose any major sources of glare that would adversely affect day and nighttime view in the area. Therefore, no impact would occur as a result of the project.

(No Impact)

CONCLUSION: Conformance with the above General Plan Policies and City development guidelines will ensure that aesthetic impacts would be reduced to a less than significant level at the time of future development of the site.

4.2 AGRICULTURE AND FORESTRY RESOURCES

REGULATORY FRAMEWORK

State

Important Farmland

The State of California Department of Conservation maintains the farmland mapping and monitoring program (FMMP)⁵. The FMMP produces maps and statistical data used for analyzing impacts on California's agricultural resources. Agricultural land is rated according to soil quality and irrigation status; the best quality land is called Prime Farmland. The maps are updated every two years with the use of a computer mapping system, aerial imagery, public review, and field reconnaissance. The most recent maps for Santa Clara County available from the Department of Conservation are from the 2014 survey (www.conservation.ca.gov/dlrp/fmmp)

Local

City of San José General Plan Policies

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the agricultural policies listed in the City's General Plan, including the following:

⁵ State of California Department of Conservation. *Farmland Mapping and Monitoring Program* (www.conservation.ca.gov/dlrp/fmmp). Accessed March 2020.

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.

Policy LU-12.5: Encourage appropriate agricultural uses in the hillsides.

EXISTING AGRICULTURE AND FORESTRY RESOURCES

No existing agriculture or forestry resources exist on site or within 100 feet of the site. Under the General Plan Use the Site is designated as Neighborhood/Community Commercial and Zoned as Commercial Pedestrian (CP). Surrounding uses are of the following:

Surrounding Uses			
	General Plan Use	Zoning	Existing Use
North	Neighborhood Community/Commercial	CP Commercial Pedestrian	Retail
South	Neighborhood Community/Commercial	CP Commercial Pedestrian	Retail
East	Neighborhood Community/Commercial	CP Commercial Pedestrian	Retail
West	Private Recreation and Open Space	R-1-8 Single Family Residence	Public Park

Would the project:

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Sources
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,5
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,5

FINDINGS:

- 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?

The project site is designated Urban and Built-Up Land in the Farmland Mapping and Monitoring Program (2014) of the California Department of Conservation. The existing project site and surrounding uses are zoned and used for commercial uses in an urban area of San José. Additionally, the site does not have a Williamson Act contract and is not zoned for forest or timberland use. Therefore, the project site is not located in an area identified as prime farmland, nor is the site being used for or zoned for agricultural use. Therefore, the proposed project will not result in a significant impact on the City's or Region's agricultural resources. The Project will not impact forest resources since the site does not contain any forest land as defined in Public Resources Code Section 12220(g), timberland as defined by Public Resources Code Section 4526, or property zoned for Timberland Production as defined by Government Code Section 51104(g).

(No Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that agricultural impacts would be reduced to a less than significant level at the time of future development of the site.

4.3 AIR QUALITY

The following discussion is based upon an Air Quality Analysis prepared by Antea Group in February 2020. A copy of the report is attached in Appendix A of this document.

REGULATORY FRAMEWORK:

The following discussion is based upon an Air Quality Analysis prepared by Antea Group in February 2020. A copy of the report is attached in Appendix A of this document.

INTRODUCTION:

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria

pollutants, including PM, O₃, CO, SO_x, NO_x, and lead (Pb). The California Air Resources Board (CARB) is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Regional

Bay Area Air Quality Management District

The City of San José is within the San Francisco Bay Area Air Quality Management District (BAAQMD). The District is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Air quality studies generally focus on criteria pollutants that are most commonly measured and regulated: ground level ozone (O₃), carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), and suspended particulate matter (PM₁₀ and PM_{2.5}). The San Francisco Bay Area Air Basin, which the City of San José is located, is a non-attainment area for ozone and particulate matter PM_{2.5} (annual) and PM₁₀ (24-hour and annual) according to California standards, and for ozone and 24-hour PM_{2.5} according to national standards, making these pollutants of greatest concern for this area.

Air quality standards are set by the federal government (the 1970 Clean Air Act and its subsequent amendments) and the state (California Clean Air Act of 1988 and its subsequent amendments (CAA)). Through the CAA:

- The Environmental Protection Agency (EPA) established primary and secondary national ambient air quality standards (NAAQS)
- States are required to prepare State Implementation Plans for air quality control, which include emissions inventories and rules and regulations

Title III of the CAA Amendments required the EPA to put into effect national emissions standards for hazardous air pollutants (NESHAP), including carbon monoxide, nitrogen oxides, ozone, particulate matter, sulfur oxides, and lead. The NESHAPs are regulated under Code of Federal Regulations (CFR) Title 40 Parts 61 and 63.

State regulations for air quality in California are managed by the California Air Resources Board (CARB). The CARB is responsible for oversight of local air pollution control programs within California and implementing plans to maintain National Ambient Air Quality Standards (NAAQS). The CARB implemented the California Clean Air Act in 1988, requiring all air districts to achieve and maintain the California Ambient Air Quality Standards (CAAQS).

The CARB with approval from the EPA has delegated authority for implementation and enforcement of New Source Performance Standards (NSPS) and NESHAPs in the San Francisco Bay Area to the BAAQMD.

California regulates toxic air contaminants (TACs) through the Tanner Air Toxics Act, which set forth a procedure for the CARB to designate substances as TACs. TACs must have control measures to keep emissions below designated thresholds or utilize best available control technology to minimize emissions. TACs are also regulated through the Toxics Hot Spots Information and Assessment Act of 1987, requiring facilities that emit toxic substances above a specified level to prepare a toxic emissions inventory, prepare a risk assessment if emissions are significant, notify the public of significant risk levels, and prepare and implement risk reduction measures.

Regionally, the BAAQMD is responsible for maintaining air quality within the San Francisco Bay Area Air Basin (SFBAAB). The clean air strategy of the BAAQMD includes preparation of plans for attainment of CAAQS, issuance of permits for stationary sources of air pollution, inspection of stationary sources of air pollution and response to citizen complaints, monitoring of air quality, and adoption and enforcement of rules and regulations concerning sources of air pollution, with respect to the CAA and its amendments, and the California CAA.

Regional air quality management district's such as the BAAQMD must prepare air quality plans specifying how state standards would be met. The BAAQMD's most recently adopted Clean Air Plan (CAP) is the *2017 Clean Air Plan: Spare the Air, Cool the Climate*⁶. The CAP includes applicable regulations regarding:

- **Toxic Air Contaminants:** TACs are a class of pollutants that includes hundreds of chemicals hazardous to human health. Long-term exposure to TACs may cause more severe health effects such as neurological damage, hormone disruption, developmental defects and cancer. Because TAC emissions are highly localized, exposure to TACs is a key criterion that the Air District uses to identify communities that are disproportionately impacted by air pollution. The average cancer risk from TACs in the Bay Area has been reduced by 80 percent since 1990. The Air District will continue working to reduce TACs with the goal of eliminating disparities in health risks from TACs among Bay Area communities.
- Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury). Nine (9) Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB)
- **Sensitive receptors:** Sensitive populations, such as children, the elderly, and those with existing health conditions, are at particular risk to respiratory difficulties, heat exhaustion, non-fatal heat stroke and heat-related mortality.

CEQA Air Quality Guidelines

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

Local

City of San José General Plan Policies

In connection with the implementation of the CAP, various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. All future development allowed by the proposed land use designations would be subject to the air quality policies listed in the General Plan, including the following:

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.

Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

⁶ BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017.

Policy MS-11.5: Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

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

Policy CD-3.3: Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

In addition to the policies of the City's General Plan, all future development allowed by the proposed land use designations would be subject to the City's Grading Ordinance⁷, which mandates that all earth moving activities shall include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

SETTING FOR AIR QUALITY:

The site is located in eastern San Jose, California, in Santa Clara County, within the San Francisco Bay Area Air Basin (SFBAAB). It is located at the northeast corner of Lincoln Ave and Curtner Ave in San José, California, in a mixed commercial area.

San Jose sits within the Santa Clara Valley, bordered by the San Francisco Bay to the north, and mountains to the south, east, and west.

Winds within the Santa Clara Valley roughly parallel the valley's northwest-southeast axis, with a north-northwesterly wind flowing through the valley during afternoons and early evenings, and a south-southeasterly drainage flow occurring during the late evenings and early mornings. During summers, the southern end of the valley may become a convergence zone where air from Monterey Bay south of the Valley flows northwards into the southern end of the valley and meets with the prevailing north-northwesterly winds. Wind speeds are greatest in spring and summer and weakest in fall and winter, though strong winds are not common.

Pollution from sources within the Santa Clara Valley come from the high concentration of industry and the large population (there are currently over one million people living in San Jose). The valley generates the highest mobile source emissions of any sub region in the SFBAAB. During higher temperatures encountered in the summer, the stable air and surrounding mountains combine to promote ozone formation in the valley. Local sources of pollution also combine with ozone precursors from the surrounding bay area carried by winds into the Santa Clara valley. The valley tends to channel pollutants to the southeast. Additionally, during the summer, ozone may be recirculated by southerly drainage flows in the late evenings and early mornings, and by prevailing northwesterly in the afternoons, with a similar pattern occurring in winters as well. This recirculation of air in the valley increases the impact of air pollutants significantly.

⁷ City of San José. *Grading Ordinance* (SJMC 17.04.280 thru 17.04.450).

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6,7,8
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6,9
d) Result in other emissions (such as those leading to objectionable odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,6,9

Thresholds of Significance

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

Table 4.3-2: BAAQMD Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operation Thresholds	
	Average Daily Emissions (pounds/day)	Annual Daily Emissions (pounds/year)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NOx	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10
CO	Not Applicable	9.0 ppm (8 hour) or 20.0 ppm (1 hour)	
Fugitive Dust	Dust Control Measures/Best Management Practices	Not Applicable	
Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)			
Health Hazard	Single Source	Combined Cumulative Sources	
Excess Cancer Risk	10 per one million	100 per one million	
Hazard Index	1.0	10.0	
Incremental Annual PM _{2.5}	0.3 ug/m ³	0.8 ug/m ³ (average)	

FINDINGS:

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

The San José General Plan makes choices between conservation and development, and defines the desirable balance between social, environmental, and economic costs in San José. Envision San José 2040 represents the official policy regarding the future character and quality of development and assesses the amount, type, and phasing of development needed to achieve its social, economic, and environmental goals. This project as designed will not conflict with the City's general plan and will implement mitigation measures for construction and operations in accordance with the land use type.

The BAAQMD 2017 CAP provides a regional strategy to protect public health and protect the climate. To protect public health, the CAP describes how the BAAQMD will continue progress toward attaining all state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the plan defines a vision for transitioning the region to a post-carbon economy needed to achieve ambitious greenhouse gas reduction targets for 2030 and 2050 and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve those GHG reduction targets. The project as designed will not conflict with the CAP by meeting BAAQMD air quality planning requirements designed to:

- Fulfill state ozone planning requirements by incorporating all feasible emissions control measures to reduce emissions of ozone precursors, specifically reactive organic gases (ROG) associated with petroleum distribution.
- Enhance the BAAQMD's efforts to reduce emissions of fine particulate matter and toxic air contaminants by exceeding the emissions criteria established for the SFBAAB.

(Less than Significant Impact)

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

Based on the site's location within the SFBAAB and data obtained from the nearest BAAQMD air quality monitoring stations, air contaminants of particular concern around the site include ozone and particulate matter.

Operational Emissions

The operational emissions for the (post-construction) project would be associated with vehicular and residential related type emissions. Table 1 below presents the estimated daily operational emissions.

Table 1: Estimated Operational Emissions						
Units	ROG	NOx	PM ₁₀ *	PM _{2.5} *	CO	SOx
Lb/day ⁽¹⁾	0.38	1.48	0.43	0.12	2.69	6.58E-03
BAAQMD Thresholds	54	54	82	54	NA	NA
Exceed Threshold	No	No	No	No	NA	NA

* Includes exhaust plus fugitives.

⁽¹⁾ lb/day = tons/yr/365 days/yr x 2,000 lbs/ton

Operational emissions for the proposed project will be below the BAAQMD thresholds for criteria pollutants and result in a less than significant impact.

Carbon monoxide emissions from traffic generated by operation of the post-construction project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high-localized concentrations of carbon monoxide. Air pollutant monitoring data indicate that carbon monoxide levels have been at healthy levels (i.e., below state and federal standards) in the Bay Area since the early 1990s. As a result, the region has been designated as attainment for the standard. There is an ambient air quality monitoring station in San Jose that measures carbon monoxide concentrations. The highest measured level over any 8-hour averaging period during the last three years is less than or equal to 25

parts per thousand million (pptm). Intersections affected by the project operational traffic would not increase traffic at the affected intersections more than 44,000 vehicles per hour and thus consistent with BAAQMD screening methodology would not cause a violation of an ambient air quality standard or have a considerable contribution to cumulative violations of these standards. Based on the discussion above, operation of the project is not anticipated to exceed the significant operational thresholds, violate any air quality standard, contribute substantially to an existing/projected air quality violation, or expose sensitive receptors to substantial air pollutant levels.

Construction Emissions

Temporary Air Quality impacts may result from demolition of the existing structure(s), excavation of soil, and other construction activities on the subject site. Estimated emissions of air pollutants during the construction phase of the project were compared to the BAAQMD significance criteria, which include thresholds based on total mass emissions on a pound per day basis, health risk-based thresholds for diesel particulate matter, and a concentration threshold for PM_{2.5} on an annual basis.

Construction emissions were estimated for the project using CalEEMod (Version 2016.3.2). Data supplied by the project developer was used for select input parameters. For other parameters that were not provided or not available, CalEEMod default values were utilized. Land use types for CalEEMod were comprised of Parking Lot (11 spaces), Convenience Market (24 hrs) (2,110 sq ft), and Gasoline Service Station (3 pumps). Other equipment parameters included one excavator/backhoe, one fork-lift, one dump truck, two jack hammers, one concrete saw, one concrete mixer, one asphalt paver, one asphalt drum roller, and one crane. Estimated daily hours of operation and total days of use for each equipment type was provided by the project developer. Estimated demolition and construction times were based on current site conditions and site design. Engine horsepower utilize the CalEEMod default values. Select equipment types were identified for each specific activity (Demolition, Site Preparation, Grading, Building, Architectural Coating, and Paving) and input according to CalEEMod off road equipment type.

Based on the CalEEMod results, no emissions of criteria pollutants during construction would exceed the BAAQMD daily significance levels. Table 2 below presents the estimated daily construction emissions.

Table 2: Estimated Construction Emissions						
Units	ROG	NOx	PM ₁₀ *	PM _{2.5} *	CO	SOx
Lbs/day	0.12	0.81	0.08	0.05	0.64	1.14E-03
BAAQMD Thresholds	54	54	82	54	NA	NA
Exceed Threshold	No	No	No	No	NA	NA

* Includes exhaust plus fugitives

Most of the dust would occur during excavation and grading activities. The amount of dust generated would be highly variable and would be dependent on the size of the area disturbed at any given time, amount of activity, and soil/weather conditions. In addition to the fugitive dust emissions, emissions of combustion PM_{2.5} would also occur. However, based on CalEEMod, criteria pollutants are much less than BAAQMD thresholds for construction and are insignificant. Implementation of the Standard Permit Conditions listed below will reduce the temporary construction impacts (including dust as PM_{2.5}) to a less than significant level.

Cumulative Emissions

Cumulative stationary and mobile source impacts were assessed for the site and immediately surrounding area, to determine how the site may create an environmental impact in combination with nearby sources of pollution. To measure cumulative impacts of multiple air pollution sources within an area, the BAAQMD recommends a search radius of 1,000 feet from the site. Two sources were listed in the tool within 1,000 feet of the site, which

is BAAQMD's recommended search radius (BAAQMD, 2012). An additional source was listed within 2,500 feet of the site.

The sources identified within 1,000 ft are as follows:

- G4001, Chevron #6139, 2252 Lincoln Avenue. Approximately 317 ft southeast of facility
- 12637, Dry Clean A+, 2252 Lincoln Avenue. Approximately 163 ft north of the facility.

Both sources are operating businesses and no construction activities are expected during the same time frame.

The BAAQMD Highway Screening Analysis Tool was utilized in assessing cumulative impacts from nearby sources. This tool lists PM_{2.5}, cancer risk, and both chronic and acute hazard indexes at heights of either 6 feet or 20 feet, depending on available data, for sections of major roadways. The nearest major roadway listed in the tool is California Highway 87 east of the site, the nearest links of which are located approximately 4,900 to 5,400 feet from the site. These highway links were identified as far enough away from the site not to warrant further analysis for inclusion with cumulative impacts as they were further than 2,000-feet from the site.

Consistent with the 2017 BAAQMD *CEQA Air Quality Guidelines*⁸, General Plan Policy MS-13.1, and current City requirements, the project shall implement the following conditions during all phases of construction on the project site, to reduce dust and construction emissions.

Standard Permit Conditions:

The following standard permit conditions are included in every project as ways to reduce potential air quality construction impacts.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two or more times per day;
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
- All vehicle speeds on unpaved roads shall be limited to 15 mph;
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points;
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation; and
- A publicly visible sign shall be posted with the telephone number and person to contact at the construction site regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

(Less Than Significant Impact)

c) Expose sensitive receptors to substantial pollutant concentrations?

In addition to the vehicular and residential related type emissions, operational emissions for the (post-construction) project would also be associated with the transfer and storage of unleaded regular gasoline, premium unleaded gasoline, and diesel fuel into underground storage tanks (USTs). Pollutant emissions from the storage of gasoline and diesel are comprised of volatile organic compounds (VOC) and TACs contained in the

⁸ BAAQMD. CEQA Air Quality Guidelines. May 2017.

gasoline and diesel. The facility will be required to obtain a minor stationary source air permit for emissions of VOCs and TACs from fuel transferred for storage and fuel dispensing into customers vehicles.

Stage I Vapor Recovery will be used during the refueling of gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the cargo tanker, instead of being vented to the atmosphere. The facility will utilize dual point submerged fill. Stage II Vapor recovery will be used at the fueling dispensers.

Emissions from gasoline and diesel transfers to USTs was calculated based on the proposed maximum fuel throughput and tank capacities utilizing EPA TANKS 4.09d emissions software. The facility currently utilizes and will continue to utilize Stage I Vapor Control Systems for each UST as well as Stage II Vapor Recovery Systems for fuel dispensing to vehicles from pumps.

Vehicle fueling emissions occur when gasoline vapors are displaced by rising liquid in the vehicle fuel tank during gasoline dispensing. These vapors are adsorbed in a carbon canister installed on vehicles equipped with an on-board refueling vapor recovery system (ORVR). When fueling non-ORVR vehicles, these vapors can be collected by a Phase II vapor recovery system and returned to the storage tank. The facility will install a Stage II vapor recovery system for fuel dispensing; therefore, vehicles equipped with an ORVR will also have additional emissions control with an enhanced vapor recovery program (EVR) utilizing the Stage II vapor recovery system.

Emissions from the dispensing of gasoline were calculated using emission factors developed by the California Air Resources Board published in "Revised Emission Factors for Phase II Vehicle Refueling at California Gasoline Dispensing Facilities", California Air Resources Board⁹. Emission factors for dispensing of diesel is based on AP42, Section 5.1 and the "Gasoline Station Emission Calculator"¹⁰. Based on that publication, the percent of gasoline dispensed to ORVR vehicles in California is estimated at 83% in 2018 and 85% in 2019. The emissions data includes ORVR vehicles and non-ORVR vehicles based on the estimated percent provided in the publication.

Total benzene emissions were calculated at 2.57 pounds per year, which is below the Trigger Level; therefore, a Community risk evaluation is not required.

The BAAQMD significance threshold for cumulative cancer risk is 100 in a million and the cumulative hazard index is greater than 10.0 (BAAQMD, 2017). For the stationary sources within 1,000 feet of the site, the cumulative cancer risk is 31.181 people per one million people, the total hazard index is 0.052, and the total PM_{2.5} is 0. Based on the estimated operational emissions presented in Table 1, and the emissions and trigger levels, cumulative impacts from the proposed project and surrounding area are not anticipated to exceed BAAQMD significance thresholds.

(Less Than Significant Impact)

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

During construction, various diesel-powered vehicles and equipment would result in related odors onsite, which would be temporary, lasting only during active construction activities. Operation of the site is not anticipated to produce any objectionable odors compared to existing site operations based on Stage I and Stage II Vapor Recovery Systems.

(Less Than Significant Impact)

⁹ CARB. *Revised Emission Factors for Phase II Vehicle Refueling at California Gasoline Dispensing Facilities*. December 23, 2013.

¹⁰ State of Colorado Department of Public Health and Environment. *Gasoline Station Emission Calculator* (www.colorado.gov/pacific/sites/default/files/AP_Gasoline-Station-EmissionsCalculator.xlsx). Accessed January 2020.

CONCLUSION: Construction and operation of the project is not expected to exceed the significant operational thresholds, violate any air quality standard, contribute substantially to an existing/projected air quality violation, or expose sensitive receptors to substantial air pollutant levels. A minor source air permit application will be submitted to the BAAQMD for construction and operation of the facility related to gasoline and diesel storage and dispensing when the design of the facility is finalized. Conformance with the above General Plan Policies and the mitigation measures noted below will ensure that air quality impacts would be reduced to a less than significant level at the time of future development of the site.

4.4 BIOLOGICAL RESOURCES

REGULATORY FRAMEWORK

Federal and State Natural Resource Requirements

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are listed as rare, threatened or endangered under the state and/or federal Endangered Species Act, and the natural communities or habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complementary to various federal, state, and local laws and regulations that are designed to protect these resources. Many of these regulations mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts, prior to the commencement of development activities. Table 3 summarizes laws and regulations applicable to the proposed project.

Table 3 Regulation of Biological Resources		
Law/Regulation	Objective(s)	Responsible Agencies
Federal Endangered Species Act California Endangered Species Act	Protect endangered species and their habitat and, ultimately restore their numbers to where they are no longer threatened or endangered.	USFWS, NOAA Fisheries CDFG
Federal Migratory Bird Treaty Act	Protect migratory birds, including their nests & eggs.	USFWS
California Fish & Game Code Section 3503.5	Protect birds of prey, including their nests & eggs.	CDFG
NOAA = National Oceanic & Atmospheric Administration USFWS = U.S. Fish & Wildlife Service CDFG = California Department of Fish & Game		

The City of San José is also included in the area covered by the Santa Clara Valley Habitat Plan (SCVHP)¹¹. The SCVHP was approved in 2013 and covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The SCVHP provides a framework for promoting the protection and recovery of natural resources, including endangered species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities. The SCVHP will protect, enhance, and restore natural

¹¹ Santa Clara Valley Habitat Agency. *Santa Clara Valley Habitat Plan*. August 2012.

resources in specific areas of Santa Clara County and contribute to the recovery of endangered species through adaptive management, conservation strategy, and reserve system to protect covered species, natural communities, biological diversity, and ecosystem function.

Local

City of San José General Plan Policies

In addition to the laws and regulations listed above, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating biological impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the biological policies listed in the City's General Plan, including the following:

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 Code¹²), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy ER-4.1: Preserve and restore, to the greatest extent feasible, habitat areas that support special-status species. Avoid development in such habitats unless no feasible alternatives exist, and mitigation is provided of equivalent value.

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.

EXISTING BIOLOGICAL RESOURCES

The following discussion is based upon a Natural Resource Review prepared by Antea Group in February 2020. A copy of the report is attached in Appendix B of this document. The Site is currently developed as a vacant gasoline service station. While most of the Site is paved, there is thin planter area along the northeast wall in addition to planter areas all along west wall extending into the northwest corner, south boundary and southwest corner. However, each planter area relatively vacant with vegetation. Invasive grass and some weeds have populated this area in pockets. A small pocket of grass and weeds can also be seen on the northwest corner. Some small ornamental plants are present along the west wall, where the largest planter area is located. They are not native to California and are not large enough to provide nesting habitat due their proximity to roads and traffic combined with their lack of vegetative screening.

There are currently two native trees on Site that are ordinance sized defined as 38 inches or more in circumference at 4 1/2 feet above ground. The site also contains seven additional trees that are not ordinance sized¹⁹ but could provide nesting habitat. In the *Natural Resource Review*, please see **Attachment A** for current site map with labeled vegetation with circumference size of each tree and **Attachment B** for photos taken from February site visit. Trees A and B located on the north wall west of the site of the site have trunk circumference site of 28.5 and 20.3 respectively. Trees located on the west wall of the Site, labeled C (most northwest tree of west wall) through H most south west tree of west wall) have the following trunk sizes: 28.3 in, 32.7 in, 25.5 in,

¹² City of San José. *Municipal Code*.

16.4 in, 17.0 in and 52.0 in respectively. Tree I located south border of the site, adjacent to Curtner Ave is a palm tree with a trunk circumference of 79.0 in

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
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 Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,11,12, 13
b) Have a substantial adverse effect on any aquatic, wetland, or riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,11, 14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,12,14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,11
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,11,15, 16
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,11

FINDINGS:

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 Game or U.S. Fish and Wildlife Service?*

No rare, threatened, endangered or special status species of flora or fauna are known to inhabit the site. The US Fish and Wildlife Service (USFWS) iPAC website was consulted¹³. While no critical habitats are located on this site, the following species are known to exist in this area:

- California Clapper Rail (*Rallus longirostris obsoletus*)
- California Least Tern (*Sterna antillarum browni*)
- California Red-legged Frog (*Rana draytonii*)
- California Tiger Salamander (*Ambystoma californiense*)
- Delta Smelt (*Hypomesus transpacificus*)
- Bay Checkerspot Butterfly (*Euphydryas editha bayensis*)
- San Bruno Elfin Butterfly (*Callophrys mossii bayensis*)
- Robust Spineflower (*Chorizanthe robusta* var. *robusta*)

The California Natural Diversity Database was checked, and the following species were also noted to inhabit the quadrangle where the site is located¹⁴:

- Cooper's hawk (*Accipiter cooperii*)
- Swainson's hawk (*Buteo swainsoni*)
- American peregrine falcon (*Falco peregrinus anatum*)
- Yellow-breasted chat (*Icteria virens*)
- Loggerhead shrike (*Lanius ludovicianus*)
- Yellow warbler (*Setophaga petechia*)
- Yellow rail (*Coturnicops noveboracensis*)
- Burrowing owl (*Athene cunicularia*)
- Foothill yellow-legged frog (*Rana boylei*)
- Obscure bumble bee (*Bombus caliginosus*)
- Crotch bumble bee (*Bombus crotchii*)
- Western bumble bee (*Bombus occidentalis*)
- San Francisco dusty-footed woodrat (*Neotoma fuscipes annectens*)
- Pallid bat (*Antrozous pallidus*)
- Townsend's big eared bat (*Corynorhinus townsendii*)
- Hoary bat (*Lasiurus cinereus*)
- Northern California legless lizard (*Anniella pulchra*)
- Coast horned lizard (*Phrynosoma blainvillii*)
- Congdon's tarplant (*Centromadia parryi* ssp. *Congdonii*)
- Hairless popcornflower (*Plagiobothrys glaber*)
- Saline clover (*Trifolium hydrophilum*)
- Hall's bush-mallow (*Malacothamnus hallii*)
- Lewis' clarkia (*Clarkia lewisii*)
- Serpentine leptosiphon (*Leptosiphon ambiguous*)
- Large-flowered leptosiphon (*Leptosiphon grandifloras*)

During a visit to the site on February 21, 2020, an Antea Group biologist did not find any habitat suitable to these species. The areas are mostly covered with invasive, weedy plants. There are currently two native trees on the Site that are ordinance sized¹⁹, which is defined as 38 inches or more in circumference at 4 1/2 feet above

¹³ United States Fish and Wildlife Service (USFWS) iPAC website (www.ecos.fws.gov/ipac). Accessed February 2020.

¹⁴ State of California Department of Fish and Wildlife. *California Natural Diversity Database* (www.wildlife.ca.gov/Data/CNDDDB). Accessed February 2020.

ground. The site also contains seven additional trees that are not ordinance sized but could provide nesting habitat. One of these trees, the palm tree located on the south side of the Site along Curtner Avenue. Another one is located on the southeast corner of the site, adjacent to Curtner Ave. No trees are planned to be removed from the site.

In addition, mature trees on the project site may provide nesting habitat for raptors (birds of prey). Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Department of Fish and Game (CDFG) Code Sections 3503 and 3503.5. Although no raptors or nests were observed on the site, mature trees suitable for raptor nesting occur on the site. Despite the disturbed nature of the site, there remains the potential for raptors to nest in these trees. With the implementation of Mitigation Measure BIO-1 below, this impact would be reduced to a less-than-significant level.

MITIGATION MEASURES:

Impact BIO-1: Construction activities associated with the proposed project could disturb nesting raptors or other migratory birds which could result in the loss of fertile eggs or nest abandonment.

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

If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or issuance 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 Director of the Department of Planning, Building, and Code Enforcement or Director's designee.

It should be noted that several bat species of concern are included on this list. Due to the potential to impact these species, the developer will inspect the site facilities to determine if any holes or hollows in any of the buildings could provide roosting habitat for bats. If that is found to be the case, such holes and hollows will be filled after bats may have left during evening hours to ensure no animals are trapped in the building prior to modification or demolition. The following mitigation measure has been put in place to avoid potential harm to bat species during demolition and construction activities.

Impact BIO-2: Construction activities associated with the proposed project could disturb roosting bats.

Mitigation Measure BIO-2: Prior to any grading permit, a qualified biologist shall inspect the site facilities to determine if any holes or hollows in any of the buildings could provide roosting habitat for bats. If potential roosting habitat is found, such holes and hollows will be filled after bats may have left during evening hours to ensure no animals are trapped in the building prior to modification or demolition. The applicant shall submit a letter from a qualified biologist documenting any bat roosting prevention work to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement or Director's designee.

(Less Than Significant Impact with Mitigation)

b) *Have a substantial adverse effect on any aquatic, wetland, or riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

The closest body of water is Guadalupe River located just under 1,800 feet from the edge of the development project. Pursuant to the City's Riparian Corridor Policy¹⁵, the project is located outside of the 100-foot setback from the riparian corridor required for urban infill projects. Lighting from the project will be directed downward on the parking area and is not anticipated to cause additional glare in the riparian corridor beyond existing conditions. While there will be glass windows on the store building, these will general be used as advertising spaces that will not appear as pass through areas to flying birds. The general design of the canopy and station facilities is open to the air and cannot trap or funnel birds into an enclosed space. Therefore, the project is in compliance with the City's Riparian Corridor Policy and not anticipated to have any impact on the riparian corridor.

(No Impact)

c) *Have a substantial adverse effect on state of federally protected wetlands including, but not limited to, marsh, vernal pool, coastal, etc., through direct removal, filling, hydrological interruption, or other means?*

The project site is not located on or adjacent to a federally protected wetland.

(No Impact)

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?*

The project site is located in an urban area and is not currently used as a migratory wildlife corridor. The project site does not contain a native wildlife nursery site. As described above, there are no wetlands on or adjacent to the project site, and therefore, the project would not impact the movement of migratory fish. The proposed project would, therefore, not impact the movement of native or migratory wildlife through the project area nor impede the use of a native wildlife nursery site.

(No Impact)

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

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

There are currently two trees on the site that are ordinance sized¹⁶, which is defined as 38 inches or more in circumference at 4 1/2 feet above ground as noted during Antea Group's February 21, 2020 site visit. The proposed development will result in the keeping both these ordinance-sized trees located in south of the property along right before the property boundary and sidewalk of Curtner Avenue. Additionally, the other 7 trees onsite will also remain on site. The site also contains some non-native ornamental bushes. There are plans to increase the size of the southwest corner planter which will extend the east boundary until it reaches the driveway along Lincoln Ave. Four additional trees in total will be planted in this planter along with other small bushes.

(No Impact)

¹⁵ City of San José. *Riparian Corridor Policy* (Policy Number 6-34).

¹⁶ City of San José. *Tree Ordinance* (Municipal Code 13.32).

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?*

The project site is located within the SCVHP permit area and designated in the “Urban-Suburban” land cover zone. No special status wildlife and plant species are identified on the project site. The project complies with the SCVHP as it does not impact any areas protected by or requiring enhancement by the plan. The SCVHP focuses on opportunities to protect existing habitat, enhance degraded habitat, and potentially provide urban habitat as mitigation for development projects. The property does not currently provide any habitat that may be beneficial beyond transient bird use, and those trees will be protected or replaced under City ordinance. As an infill project, the site development will not impact the riparian corridor, but neither does it provide the opportunity to enhance the corridor since it is separated from the corridor by Capitol Expressway. By not degrading or impacted any valuable habitat resources, in conjunction with the Standard Permit Condition below, the project will not conflict with the SCVHP.

(No Impact)

Standard Permit Conditions:

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

CONCLUSION: Conformance with the above General Plan Policies, Standard Permit Conditions, and the Mitigation Measures outlined below will ensure that biological impacts would be reduced to a less than significant level at the time of future development of the site.

4.5 CULTURAL RESOURCES

REGULATORY FRAMEWORK:

Federal and State

The consideration of cultural resources is generally divided into two categories: historic resources that can include burial sites, buildings and the location of habitations, and tribal cultural resources that can include more broad considerations for how indigenous peoples regarded the land they lived in.

Historic Resources

The National Historic Preservation Act of 1966 (as amended), the California Public Resources Code, and CEQA are the basic federal and state regulations governing the preservation of historic and archaeological resources of national, regional, and state significance. National Register of Historic Places The historic significance and eligibility of a building, structure, object, site, or district for listing is assessed based upon the criteria in the National Register of Historic Places (NRHP). A resource is considered eligible for the NRHP if the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

- that are associated with events that have made a significant contribution to the broad pattern of our history; or
- that are associated with the lives of persons significant to our past; or
- that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- that have yielded, or may be likely to yield, information important in prehistory or history.
- California Register of Historical Resources

The California Register of Historical Resources (CRHR) was created to identify resources deemed worthy of preservation and was modeled closely after the NRHP. The criteria are nearly identical to those of the NRHP, which includes resources of local, state, and regional and/or national levels of significance. A CRHR-eligible resource generally must be greater than 50 years old and significant at the local, state, or national level under one or more of the following four criteria:

- It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
- It is associated with the lives of persons important to local, California, or national history.
- It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or important creative individual or possesses high artistic values.
- It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

Properties of local significance designated under a local preservation or identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise.

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

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

Local

Historic Preservation Ordinance

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

City of San José General Plan Policies

The City's General Plan also includes historic preservation and archaeological and cultural resources policies regarding preservation of those resources within the City and are applicable to the proposed project, including the following:

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.

Policy LU-14.5: Continue and strengthen enforcement programs, such as those addressing vacant buildings, to promote the maintenance and survival of all classes of the city's historic and cultural resources.

EXISTING CULTURAL RESOURCES

The original structure was constructed in 1968; however, the structure as of today has undergone modifications including removal of a car service bay and addition of a convenient store in 2011. Due to physical changes 2011, there are no components that still exist from 1968 therefore the structure would not be considered eligible as an historic structure. The National Register of Historic Places ¹⁷ and California Register of Historical Resources ¹⁸ was referenced to check if the site was in or within the vicinity of national resources, buildings, sites, districts, structures and objects of historical importance. The closest historical structure is the Roberto Adobe & Suñol House Museum located at 770 Lincoln Ave, over 2 miles away from the site location.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Cause a substantial adverse change in the significance of an historical resource pursuant to CEQA Guidelines §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 16
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 16
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 16

FINDINGS:

a) *Cause a substantial adverse change in the significance of an historical resource pursuant to CEQA Guidelines §15064.5?*

The original structure was constructed in 1968; however, the structure as of today has undergone modifications including removal of a car service bay and addition of a convenient store in 2011. Due to physical changes 2011, there are no components that still exist from 1968 therefore the structure would not be considered eligible as

¹⁷ National Register of Historical Places. *National Archives Excel Sheet*.

<https://www.nps.gov/subjects/nationalregister/database-research.htm>. Date Accessed June 2020.

¹⁸ California Register of Historical Resources. California Historical Landmarks by County/ Santa Clara. https://ohp.parks.ca.gov/?page_id=21522. Date Accessed June 2020.

an historic structure. Additionally, no historic resources are located near the project site. Therefore, the proposed project would have less than significant impact on historic structures.

(Less Than Significant Impact)

b) *Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?*

According to the General Plan, the project is not within sensitive areas for archeological finds. The property has been heavily disturbed in 1968 when installation of the original underground storage tank system was installed and additionally in 2012 when the underground storage tanks (UST) were removed and in 2013 when a new UST system was installed. There is no reporting of archeological resources having been encountered during those construction projects. Nevertheless, there is a small probability that earthmoving activities on-site may result in the loss of unknown subsurface archeological resources. Consistent with General Plan Policies ER-10.2 and ER-10.3, the project would to implement the following Standard Permit Conditions project to reduce or avoid impacts to subsurface cultural resources.

(Less Than Significant Impact)

Standard Permit Conditions:

- 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.
- If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - The MLD identified fails to make a recommendation; or
 - The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

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

The property has been heavily disturbed by the past installation of the original tank system and building in 1968. There was an additional excavation conducted in August 2013 when the underground storage tank system and associated piping were installed. There is no reporting of human remains having been encountered during those

construction projects. The proposed project will occur yet again in this same heavily disturbed area, and as there is no expectation to create major disturbance beyond shallow footings throughout the property outside the tank installation, it is not expected that the project would cause any significant impacts to any human remains. With the implementation of the Standard Permit Conditions in b) above would reduce or avoid impacts to as yet unidentified human remains.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies and Standard Permit Conditions will ensure that cultural resources impacts would be reduced to a less than significant level at the time of development of the site.

4.6 ENERGY

REGULATORY FRAMEWORK:

State

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2017. In 2006 under Senate Bill 107, California's 20 percent by 2010 RPS goal was codified. The legislation required retail sellers of electricity to increase renewable energy purchases by at least 1 percent per year with a target of 20 percent renewables by 2010. Publicly owned utilities set their own RPS goals recognizing the intent of the legislature to attain the 20 percent by 2010 target.

On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order S-14-08 requiring that "...[a]ll retail sellers of electricity shall serve 33 percent of their load with renewable energy by 2020." The following year, Executive Order S-21-09 directed the California Air Resources Board, under its AB 32 authority, to enact regulations to achieve the goal of 33 percent renewables by 2020.

SBX1-2 was signed by Governor Edmund G. Brown, Jr., in April 2011 to codify the ambitious 33 percent by 2020 goal. This new RPS applied to all electricity retailers in the state including publicly owned utilities, investor-owned utilities, electricity service providers, and community choice aggregators. All of these entities must adopt the new RPS goals of 20 percent of retail sales from renewables by the end of 2013, 25 percent by the end of 2016, and the 33 percent requirement being met by the end of 2020.

In October 2015, Governor Brown signed Senate Bill 350 to codify ambitious climate and clean energy goals. One key provision of SB 350 is for retail sellers, and publicly owned utilities to procure "half of the state's electricity from renewable sources by 2030."

Local

City of San José General Plan Policies

The *Envision San José 2040 General Plan* sets forth various policies in an effort to reduce the consumption of energy within the City and increase energy efficiency. The goal of the plan is to reduce per capita energy consumption by at least 50% compared to 2008 levels by 2022 and maintain or reduce net aggregate energy consumption levels equivalent to the 2022 (Green Vision) level through 2040. These policies include:

MS-14.1: Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.

MS-14.2: Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.

MS-14.3: Consistent with the California Public Utilities Commission's California Long Term Energy Efficiency Strategic Plan, as revised, and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use.

MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

MS-14.5: Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements.

EXISTING ENERGY SOURCES:

The existing facilities on Site are inactive, and no energy sources are being used. All underground utilities necessary for operation are already installed.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

FINDINGS:

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

The most significant energy source consumed during construction will be diesel fuel. However, all equipment used will comply with the current EPA tier standards for emissions. As such, it will be the most fuel-efficient equipment currently available. To comply with air regulations, idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes, thereby further increasing fuel efficiency. While fossil fuels will be consumed, they will not be consumed in a wasteful or unnecessary manner.

The energy sources consumed during operation will be electricity and natural gas. To reduce the consumption of electricity, the project will comply with the San José Outdoor Lighting Policy that requires lighting associated with the parking and canopy area to be downward facing and energy efficient. No wasteful or unnecessary energy consumption is anticipated to be associated with the operation of the project.

(Less Than Significant Impact)

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

Since this project is not a new development but the rehabilitation of an existing structure, the long-term jobs available at this location neither conflict with nor change their accessibility to City public transit facilities or bike trails. However, the project will comply with all City building codes, including the City's Green Building Policies. The project will purchase all energy supplied from public utilities regulated by the state's RPS standard. As such, it will not conflict with or construct with any state or local plans for renewable energy or energy efficiency.

(Less Than Significant Impact)

CONCLUSION: Conformance with the General Plan Policies will ensure that energy impacts would be reduced to a less than significant level at the time of future development of the site.

4.7 GEOLOGY AND SOILS

REGULATORY FRAMEWORK:

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

Public Resources Code Section 5097.5

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

Paleontological Resources

Several sections of the California Public Resources Code protect paleontological resources. Section 5097.5 prohibits “knowing and willful” excavation, removal, destruction, injury, and defacement of any “vertebrate paleontological site, including fossilized footprints” on public lands, except where the agency with jurisdiction has granted express permission.”

Local

City of San José General Plan Policies

Various policies in the City’s General Plan have been adopted for the purpose of avoiding or mitigating geology and soil impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the geology and soil policies listed in the City’s General Plan, including the following:

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-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-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, 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.

EXISTING GEOLOGY AND SOILS

The tank removal report from Emcon Associates¹⁹ indicates that the site is underlain primarily by clay which contains occasional sand layers in the depth interval of 21 to 25 feet. In some areas the sand layers grade to coarse gravels toward the northwest corner of the site. Clayey materials generally revealed some indication of groundwater saturation within voids to a depth of 16 feet below ground surface. Static water level is a depth of approximately 16 feet below ground surface. The site has been deliberately graded to be generally flat and it wholly paved to contain and direct stormwater runoff.

¹⁹ Emcon Associates. *Tank Removal Report*. June 1985.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
1) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,17
2) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16,17
3) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16,17
4) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,17
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16,18
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 16

FINDINGS:

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

- 1) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)
- 2) Strong seismic ground shaking?
- 3) Seismic-related ground failure, including liquefaction?
- 4) Landslides?

b) 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?

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

Due to its location within a seismically active region²⁰, the project site would likely be subject to at least one moderate to major earthquake that could affect the project after construction. The site would be subject to strong ground shaking in the event of a major earthquake on one of the region's active faults. Because the potential for liquefaction on the site is considered high, liquefaction and differential settlement could occur on the site during an earthquake. The proposed structures on the site would be designed and constructed in conformance with the Uniform Building Code Guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site. The project would require a design-level geotechnical investigation as outlined in the conditions below.

Standard Permit Conditions

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

Conformance with standard Uniform Building Code Guidelines would minimize potential impacts from seismic shaking on the site. Therefore, this impact is considered less than significant. The site is not subject to landslides because it is generally flat.

(Less Than Significant Impact)

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

Ground disturbance would be required for the pump island canopy, pump islands, and one 20,000-gallon underground storage tank. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed. The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan EIR concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including the following standard permit conditions.

Standard Permit Conditions

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

(No Impact)

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

²⁰ State of California Department of Conservation. *Geological Survey Geo-Hazard Maps / Alquist Priolo Fault Maps*. (<http://www.conservation.ca.gov/cgs/Pages/Index.aspx>) Accessed March 2020.

The project site is located within an urbanized area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the project site would not need to support septic tanks or alternative wastewater disposal systems.

(No Impact)

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

According to the General Plan EIR, the proposed project is located in an area marked as “High Sensitivity at Depth”. As the project does not anticipate causing any disturbance at depth, it is not likely that any paleontological resources will be disturbed. In addition, the major construction on this project will occur in heavily disturbed areas where no paleontological resources have previously been encountered. Construction activities may, therefore, result in the accidental destruction or disturbance of paleontological sites, which could convey important information. Although not anticipated, construction activities associated with implementation of the project could result in a significant impact to paleontological resources, if encountered. Consistent with General Plan Policy ER-10.3, the project would implement the following Standard Permit Conditions project to reduce and avoid impacts to as yet unidentified paleontological resources.

(Less Than Significant Impact)

Standard Permit Conditions:

- 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.

CONCLUSION: Conformance with the above General Plan Policies will ensure that geology and soils impacts would be reduced to a less than significant level at the time of future development of the site.

4.8 GREENHOUSE GAS EMISSIONS

The following discussion is based upon an Air Quality Analysis prepared by Antea Group in February 2020. A copy of the report is attached in Appendix A of this document.

INTRODUCTION:

Various gases in the earth’s atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the earth’s surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth’s surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO₂), methane (CH₄), ozone (O₃), water vapor, nitrous oxide (N₂O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.

Federal Regulations

Clean Air Act

The EPA is the federal agency responsible for implementing the Clean Air Act (CAA). The United States Supreme Court in its 2007 decision in *Massachusetts et al. v. Environmental Protection Agency et al.* ruled that carbon

dioxide (CO₂) is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of greenhouse gases (GHGs). Following the court decision, EPA has taken actions to regulate, monitor, and potentially reduce GHG emissions (primarily mobile emissions).

State Regulations

California Global Warming Solutions Act (Assembly Bill 32)

Under the California Global Warming Solution Act, also known as Assembly Bill 32 (AB 32), the California Air Resources Board (CARB) established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and the Climate Change Scoping Plan identifying how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms, and other actions.

On September 8, 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. As a part of this effort, CARB is required to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB has initiated the public process to update the state's Climate Change Scoping Plan. The updated plan will provide a framework for achieving the 2030 target and is anticipated to be adopted by CARB 2017.

Senate Bill 375 – Redesigning Communities to Reduce GHGs

Consistent with the requirements of SB 375, Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and Bay Conservation and Development Commission (BCDC) to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan (RTP) process. The SCS is referred to as *Plan Bay Area*²¹.

Originally adopted in 2013 *Plan Bay Area*, established a course for reducing per-capita GHG emissions through the promotion of compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). Building upon the development strategies outlined in the original plan, *Plan Bay Area 2040* was adopted in July 2017 as a focused update with revised planning assumptions based current demographic trends. Target areas in the *Plan Bay Area 2040* Action Plan area related to reducing GHG emissions, improving transportation access, maintaining the region's infrastructure, and enhancing resilience to climate change (including fostering open space as a means to reduce flood risk and enhance air quality).

Regional Regulations

Bay Area Air Quality Management District

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area counties. BAAQMD and other agencies prepare clean air plans as required under the state and federal CAAs. The Bay Area 2017 Clean Air Plan (2017 CAP) focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. The 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. As discussed in the CEQA Air Quality Guidelines, the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San Jose and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for greenhouse gas emissions developed by the BAAQMD. The CEQA Air Quality

²¹ Metropolitan Transportation Commission. *Plan Bay Area 2040*. July 2017.

Guidelines include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing GHG emissions, mitigation measures, and background information.

Local

City of San José General Plan Policies

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

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

The primary test for consistency with the City's GHG Reduction Strategy is conformance with the General Plan Land Use/Transportation Diagram and supporting policies. CEQA clearance for development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. Compliance with the mandatory measures and voluntary measures (if required by the City) would ensure an individual project's consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG and would not conflict with targets in the currently adopted *Climate Change Scoping Plan* through 2020.

The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan EIR, and as supplemented. Beyond 2020, the emission reductions in the GHG Reduction Strategy are not large enough to meet the City's identified 3.04 metric tons (MT) CO₂e/SP efficiency metric for 2035. An additional reduction of 5,392,000 MT CO₂e per year would be required for the projected service population to meet the City's target for 2035.¹² Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHG Reduction Strategy adopted by the City Council in 2015. The General Plan EIR disclosed that it will require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and state level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips—especially to and from workplaces. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHG Reduction Strategy. Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2030 to 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHG Reduction Strategy over time as new technologies or practical measures are identified. Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHG Reduction Strategy. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, will ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHG Reduction Strategy and the target of 80 percent below 1990 emission levels by 2050. The following General Plan policies are related to GHG emissions and are applicable to the proposed project.

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-14.4 Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

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

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

City of San José Private Sector Green Building Policy (6-32): In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The green building standards required by this policy are intended to advance greenhouse gas reduction by reducing per capita energy use, providing energy from renewable sources, diverting waste from landfills, using less water, and encouraging the use of recycled wastewater.

Would the Project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,19

Thresholds of Significance

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

The numeric thresholds set by BAAQMD were calculated to achieve the state's 2020 target of 1990 GHG levels. The project is anticipated to take approximately one year to complete, starting in 2020 and finishing in 2021.

The state has completed a Scoping Plan which will be utilized by BAAQMD to establish the 2030 efficiency threshold. The efficiency threshold would need to be met by individual projects in order for state and local governments to comply with the SB 32 2030 reduction target. At this time BAAQMD has not published a quantified threshold for 2030. For the purposes of this analysis, however, a significance threshold of 660 MT of

CO₂e has been calculated for 2030 based on the GHG reduction goals of SB 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels

FINDINGS:

- 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?*

Since operations will be post-2020, project related GHG emissions were compared to SB 32 2030 reduction target numbers (40% of the current BAAQMD's CEQA thresholds of significance for operational GHG emissions: 1,100 metric tons (MT) of carbon dioxide equivalents (CO₂e) per year = 660 MT of CO₂e per year). The analysis evaluated incremental project impacts by netting out emissions by the proposed use of a 3-pump gas station and 24-hour convenience store. The facility has not been in operation for several years; therefore, netting for incremental impacts versus the proposed use is not applicable. Consistent with the approach for estimating operational GHG emissions, the total GHG emissions from proposed construction/operations were estimated using the California Emissions Estimation Model (CalEEMod™ Version 2016.3.2). Traffic patterns and trip rates were based on the results of a Transportation Impact Analysis (TIA) conducted by J. Daniel Takacs (TR1549) (December 19, 2016) for the proposed land use. Although the TIA included the installation of four multiuse fuel dispensers, the City of San Jose stated that because the number of fuel dispensers in the proposed project has decreased from four dispensers to three dispensers, the TIA previously conducted, does not need to be updated as the original analysis is more conservative and greater impacts would not be anticipated.

When modeling parameters were unknown, the default values in CalEEMod™ were utilized for modeling GHG emissions from current operations. Demolition and construction phases were estimates as provided by the engineering design group for the project. For indirect source emissions from electricity generation/distribution, water and wastewater treatment, and solid waste disposal, default values were utilized for the model. The net GHG emissions from operation generated traffic, energy, waste and water result in 111.30 MT of CO₂e per year. Construction net GHG emissions is 36.24 MT of CO₂e.

The calculated GHG emissions are less than the BAAQMD threshold of 660 MT of CO₂e per year resulting in a less than significant impact. While there are no CEQA threshold standards for construction emissions, these will be minimized by the same Standard Permit Conditions as outlined in *Section 4.3 Air Quality* to reduce air quality emissions, such as dust and construction emissions.

(Less Than Significant Impact)

CONCLUSION: As discussed above, the project's construction and operational emissions would not conflict with AB 32 or SB 32. As discussed in Section 4.3 Air Quality, the project is consistent with the 2017 CAP. In addition, the project would reduce energy and water consumption by complying with Title 24, CALGreen, and City Council Policy 6-32, which in turn, would reduce GHG emissions associated with conveying these resources. Therefore, the project would not conflict with GHG emissions reduction policies and the impact is less than significant.

While there are no CEQA threshold standards for construction emissions, these will be minimized by the same Standard Permit Conditions as outlined in *Section 4.3 Air Quality* to reduce air quality emissions, such as dust and construction emissions.

4.9 HAZARDS AND HAZARDOUS MATERIALS

REGULATORY FRAMEWORK:

Federal and State Regulations

Hazardous materials encompass a wide range of substances, some of which are naturally occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present

on or near project sites is important because, by definition, exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

Due to the fact that these substances have properties that are toxic to humans and/or the ecosystem, there are multiple regulatory programs in place that are designed to minimize the chance for unintended releases and/or exposures to occur. Table 4 summarizes many of these regulations.

Table 4 Regulation of Hazardous Materials	
Agency	Responsibilities
U.S. Environmental Protection Agency (EPA)	Oversees Superfund sites; evaluates remediation technologies; develops standards for hazmat disposal & cleanup of contamination; implements Clean Air & Clean Water Acts.
U.S. Department of Transportation (DOT)	Regulates and oversees the transportation of hazardous materials.
U.S. Occupational Safety & Health Administration (OSHA)	Implements federal regulations and develops protocol regarding the handling of hazmat for the protection of workers.
CA Department of Toxic Substances Control (DTSC)	Authorized by EPA to implement & enforce various federal hazmat laws & regulations; implements state hazmat regulations; oversees remediation of contamination at various sites.
CA Occupational Safety & Health (Cal-OSHA)	Implements state regulations and develops protocol regarding the handling of hazmat for the protection of workers.
CA Air Resources Board/Bay Area Air Quality Management District (BAAQMD)	Regulates emissions of toxic air contaminants & requires public dissemination information regarding the risk of such emissions.
CA Water Resources Control Board/Regional Water Quality Control Board (RWQCB)	Regulates the discharge of hazmat to surface and ground waters; oversees remediation of contamination at various sites.
Santa Clara County Department of Environmental Health (SCCDEH)	Oversees & enforces state/local regulations pertaining to hazardous waste generators and risk management programs, including the California Accidental Release Program.
City of San José Fire Department (SJFD)	Implements City's Toxic Gas and Hazardous Material Storage Ordinances; requires businesses that use or store hazmat to prepare a management plan; regulates installation & removal of above- and below-ground storage tanks; reviews plans for compliance with the Uniform Fire and the Flammable & Combustible Liquids Codes.
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	The Comprehensive Environmental Response, Compensation, and Liability Act -- otherwise known as CERCLA or Superfund (42 U.S.C. §9601 et seq. (1980)) -- provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, EPA was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup.

Local

City of San José General Plan Policies

In addition to the above regulations, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. All future development allowed by the proposed land use designation changes will be subject to the hazards and hazardous materials policies of the City's General Plan, including the following:

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 the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Policy EC-6.6: Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

Policy EC-7.5: On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/ or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

Policy EC-7.7: Determine for any development or redevelopment site that is within 1,000 feet of a known, suspected, or likely geographic ultramafic rock unit (as identified in maps developed by the Department of Conservation – Division of Mines and Geology) or any other known or suspected locations of serpentine or naturally occurring asbestos, if naturally occurring asbestos exists and, if so, comply with the Bay Area Air Quality Management District's Asbestos Air Toxic Control Measure requirements.

Policy EC-7.8: Where an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.

Policy EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

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

ENVIRONMENTAL SETTING

The following discussion is based upon a *Phase I Environmental Site Assessment* prepared by AEI Consultants in December 7, 2018. A copy of the report is attached in Appendix C of this document. Please refer to Figure 3 for a former Site map referenced from the *Phase I Environmental Site Assessment* that details former soil borings, monitoring well locations and all associated former and current service station systems.

On-Site Sources of Contamination

Leaking Underground Storage Tanks

The Site has three former LUST cases.

The first LUST case was opened in 1987 following the removal of three gasoline USTs and associated piping. This case initially received closure by the Santa Clara Valley Water District (SCVWD) in April 1998.

The second LUST case was opened in April 1999, under the Santa Clara County COP Case No. 07S1E29P01f. A year later from the previous case, elevated levels of contaminants were found during a subsurface investigation conducted in November 1998 within the area of operating dispensers and piping. This case consisted of remedial activities and groundwater monitoring from 1999 to 2003. Confirmation soil samples were taken in 2003. Analytes TPH-g, BTEX, and MTBE were still detected in the soil, however, all below their respective environmental screening levels (ESLs) set by the San Francisco Bay Regional Water Quality Control Board. Groundwater samples from 2003 also showcased non-detect or below laboratory reporting limits. Therefore, even though contamination was still present, SCVWD approved regulatory closure and no further action in March 2004.

The third LUST case opened in 2006 under Santa Clara County COP Case No. 07S1E29P05f and San Francisco Bay Regional Water Quality Control Board Case No. 14-774. Detection of contamination was found during removal of three 12,000 gallons underground storage tanks, associated piping and fuel dispensers. An initial remedial excavation was conducted and approximately 980 tons of soil and gravel were removed from the site. Analytes for all samples were below ESLs with the exception of a sample taken near the dispenser. Concentrations of TPHg, ethylbenzene, toluene and xylenes were above environmental screening levels. It was determined that these concentrations must have originated from the former dispenser location and was confined only in the immediate vicinity. An additional remedial over excavation was conducted on December 11, 2006 with additional soil sample confirmation samples. Although concentrations of TPHg (81 ppm), MTBE (0.17 ppm), ethylbenzene (0.24ppm) and xylenes (2.2 ppm) were measured in the soil, these values were all below their respective ESLs. Therefore, Santa Clara County Environmental Health Department (SCCDEH) approved of a regulatory closure. The March 7, 2007, closure letter from the SCCDEH stated that residual contamination remaining on the property needs to be addressed prior to redevelopment. Specifically, that residual contamination in both soil and groundwater may remain at the site that could pose an unacceptable risk under certain site development activities such as site grading, excavation, or the installation of water wells. Therefore, a Site Management Plan is required to be developed and implemented for the site development activities.

Other Environmental Considerations (OEC)

This section is to discuss environmental considerations that do not qualify for the Recognized Environmental Condition as defined by the ASTM Standard Practice E1527-13 but could affect the liabilities and financial

obligations of the client, health and safety of site occupants and value/marketability of the property. Environmental considerations could include but are not limited to: ACMs, LBP, radon, or mold in drinking water.

According to regulatory records, the Site was formerly equipped with an oil/water separator located in the southeast portion of the subject property building associated with the former auto repair operations conducted from at least 1968 to 2006. The oil/water separator was removed on June 26, 2003. The removal report, prepared by Cambria Environmental Technology, Inc., notes soil sampling was conducted beneath the removed separator. The samples were analyzed for TPH-g, TPH-d, VOCs, SVOCs, PCBs, total oil & grease, petroleum oil & grease, and heavy metals. All analytes measured below laboratory reporting limits with the exception of lead, cadmium, chromium, nickel, and zinc. The report states all analytes were within background concentration ranges for California soils. Based on this information, the former presence of the oil/water separator is not expected to represent a significant environmental concern.

According to records on file with the SCCDEH and San Jose Fire Department (SJFD), one 550-gallon single-wall fiberglass UST containing waste oil and associated piping was removed on March 16, 2006. The removal report, prepared by Cambria Environmental Technology, Inc., notes no cracks or corrosion of the UST was observed upon removal. Two soil samples were collected from a depth of 9 feet within the tank excavation. The samples were analyzed for TPH-g, TPH-d, BTEX, MTBE, ETBE, DIPE, TAME, TBA, 1,2-DCA, EDB, chlorinated hydrocarbons, heavy metals, PCBs, PNAs, PCP, and creosote. All analytes measured below laboratory reporting limits with the exception of TPH-d with a maximum concentration of 77 ppm, oil & grease at 175 ppm, chromium at 117 ppm, lead at 29.6 ppm, nickel at 176 ppm, and zinc at 318 ppm. The report states all analytes except chromium and nickel are below RWQCB ESLs for shallow soil where groundwater is a potential source of drinking water, however, the chromium and nickel concentrations that exceed the ESLs are within background concentration ranges for California soils. Based on this information, the former presence of the waste oil UST is not expected to represent a significant environmental concern.

During site reconnaissance, Mr. Franges stated he was aware that the former auto repair shop which operated in the current subject property building was equipped with in-ground hydraulic lifts. He stated the lifts were removed when Shell ceased operations at the subject property in 2006. A brief mention of the lifts was documented in a 2013 environmental health inspection record stating hydraulic oil has been removed from three hydraulic lifts present on site and stored in three 55-gallon drums labeled "hazardous" and non-hazardous" waste. The inspector stated the hydraulic oil must be removed following regulatory procedure. However, the lifts are not discussed in any of the removal reports and there are no other inspection documents from the health, fire, or building departments noting their status or specific location. During site reconnaissance, AEI observed that the interior of the subject property building has been remodeled and all flooring surfaces are covered with tile, therefore AEI could not visually assess whether the features had been removed. Based on historical site maps from the records documented in this report, AEI depicted an area on Figure 2 most likely to contain the in-ground hydraulic lifts within the subject property building. AEI presumes the lifts were most likely located in the eastern portion of the subject property in the vicinity of the former oil/water separator. To assess the potential environmental impact of the in-ground lifts, AEI used sampling data collected upon the removal of the oil/water separator (O/W-1) based on its presumed close proximity to the lifts and the waste oil UST (WO-1 and WO-2) based on its down-gradient position of the presumed lifts locations. According to the sampling data, all analytes including TPH-g, TPH-d, BTEX, MTBE, VOCs, SVOCs, and PCBs measured as non-detect or were below laboratory reporting limits for these sampling points with the exception of TPH-g, which was detected at concentrations of 77 mg/kg in WO-1 and 13 mg/kg at WO-2. Although TPH-g was detected, the sampling results are below The SF Bay RWQCB ESLs for shallow soil where groundwater is a current or potential source of drinking water. Based on this information, it does not appear that the in-ground lifts impacted the subsurface of the subject property. However, should the User of the report require a greater degree of certainty, subsurface sampling and/or a removal/sampling report of the lifts would be necessary to confirm if a release from the in-ground lifts has occurred.

Off-Site Sources of Contamination

Offsite contamination information was limited and was sourced from GeoTracker.

There are 3 LUST Clean up Cases located within 1000 ft radius of the Site each with a cleanup status of complete. The closest site is an Acc-U-Tune Service Station approximately just under 200 feet west, located on 220 Lincoln Ave under the San Clara Valley Water District (SCVWD) Case No. 07S1E29P03f. The next site is a Chevron Service Station approximately 280 feet southwest, located on 2252 Lincoln Ave, San Jose under the Santa Clara Valley Water District Case No. 07S1E29P02f. The final site within the 1000 ft radius is Avcar Car Rental approximately 650 feet away from the Site on 2280 Lincoln Ave, San Jose under the Santa Clara Valley Water District No. 07S1E29P04f.

Acc-U-Tune Service Station—220 Lincoln Ave, San Jose-- SCVWD No. 07S1E29P03f

On March 1, 1990, 2 of 3 tanks onsite were removed due to no longer being needed at Acc-U-Tune gas station located at 220 Lincoln Ave, San Jose. Confirmation soil samples taken in tank pit were nondetect for low/medium B.P. Hydrocarbons, benzene, toluene, ethyl benzene and xylenes. However, soil sample below waste oil tank contained 2.5 ppm TPHd, BTEX up to 35 ppb benzene was detected in soil sample collected during vapor monitoring well installation adjacent to 10,000-gallon gasoline tank. On April 24, 1991, request for closure from the Santa Clara Valley Water District was submitted based on the following: The soil pollution extended less than 10 feet laterally from the remaining underground storage tank and only approximately 10 feet vertically beneath the ground surface. Groundwater is greater than 50 feet at this location, and the depth to groundwater below the detected contamination is at least 35 feet. No holes were observed in any of the tanks when pulled in March 1990. Although excavated soil may have been used for backfill material, the concentrations detected in the initial soil samples, and the good conditions of the tank, imply that the contaminant concentrations in the excavated material would be minor. The contamination detected in the soil sample collected during the installation of the vapor monitoring well and any contamination remaining in or below the former tank excavation is minor and should not pose a threat to groundwater in the future. On May 15, 1991, California Regional Water Quality Control Board San Francisco Bay Region granted approval of case closure.

Chevron Service Station – 2252 Lincoln Ave, San Jose, SCVWD Case No. 07S1E29P02f

On January 11, 1990, Blaine Tech Services (BTS) of Jan Jose, California, documented the excavation of three underground gasoline tanks and one underground waste oil tank. The tanks conditions were rusted and pitted but no holes were observed in any of the tanks. BTS collected soil samples from beneath both ends of the three former gasoline tanks and one underground waste oil tank. BTS collected soil samples from beneath both ends of the three former gasoline tanks and beneath the middle of the former waste oil tank. The samples were analyzed onsite in a mobile laboratory by Geotest of Long Beach, California. All sample analyzed for total petroleum hydrocarbons as gasoline (TPH-G) by modified EPA Method 8015, and benzene, ethylbenzene, tolyene and xylenes (BTEX) by EPA Method 8020. The waste oil tank sample was also analyzed for total oil tank sample was to be analyzed for halogenated volatile organic compounds (HVOCs) and total petroleum hydrocarbons as diesel (TPH-D), these analyses were not performed. One soil sample from beneath the former gasoline tanks contained hydrocarbons. This sample was from 15 ft depth beneath the west end of the middle tank and contained 0,3 ppm xylenes. No TOG was detected in soil from beneath the waste oil tank. Based on these results, Inspector Rick Bailey of the San Jose Fire Department deemed that it was not necessary to analyze sample from beneath the waste oil tank for halogenated volatile organics.

On January 18, 1990, Cynthia Wong of Chevron USA directed soil excavation and sampling beneath the fuel piping and pump islands. The sample were analyzed on site for TPH-G and BTEX in a Geotest mobile laboratory. TPH-G and/or BTEX were detected in six of twenty sample analyzed. TPH-G were detected at 410 parts per million (ppm) in soil at 6 ft depth at the south end of the westernmost pump island. Soil beneath this location was excavated to 9.5 ft depth and resampled. Although no TPH-G were detected in the 9.5 ft depth sample, p to 0.88 ppm BTEX were detected. No TPH-G were detected in four soil samples from beneath the middle pump

island, although BETX were detected at up to 2.0 ppm. Soil collected from 5 ft depth beneath the piping intersection near the building contained 72 ppm TPH-G and up to 10 ppm BETX. Soil collected from 3.5 depth at two locations at the west end of the northernmost pump island contained up to 12,000 ppm TPH-G. Soil was excavated to 5 and 7 ft depth beneath these two sample locations. Although no TPH-G were detected in the samples, 0.1 ppm benzene was detected in the 7 ft deep excavation.

A Subsurface Investigation, submitted on April 10, 1991 was conducted by Weiss Associates. On January 24, 1991 Weiss Associated advanced borehole BH-A to a depth of 50 feet and on February 28, 1991 advanced borehole BH-WO to 25ft in order to determine whether gasoline was in soil beneath the northernmost pump island and whether hydrocarbons and selected metals were in soil beneath the former waste oil tanks. No hydrocarbons were detected in soil samples from BH-A beside the northern pump island. No halogenated volatile organic compounds or total petroleum hydrocarbons as diesel, polychlorinated biphenyls or semi-chlorinated volatile organic compounds were detected in soil from boring BH-WO beneath the former waste oil tank. Chromium, nickel and zinc were detected but not in concentrations exceeding the total threshold limit concentrations. Water was no encountered in either borehole.

On November 11, 1991 a site closure recommendation was filed with the conclusions that since borehole BH-HO, at a depth of approximately 3.5 feet below the bottom of the waste oil tank, contained non-detectable concentrations of all constituents and appropriate detection limits were used. Also, no evidence of contamination was detected by field screening and observation of other soil samples collected from below the waste oil tank. The contaminated soil below the dispenser islands was removed and soil samples collected from soil boring BH-A, drilled adjacent to the northern dispenser island contained nondetectable concentrations of TPHg and BTEX using appropriate detection limits. Although there are higher permeability sand and gravel lenses, the soils underlying the site consist of primarily of silts. The depth to groundwater is greater than 0 feet, and more than 35 feet separates groundwater and the remaining contamination. The contamination remaining at the site is minor and should not represent a threat to groundwater. Closure was granted approval on January 24, 1992 by the Santa Clara Valley Water District.

Avcar Car Rental—2280 Lincoln Ave, San Jose, SCVWD No. 07S1E29P04f

The site located in the Willow Glen District of San Jose at the northeast corner of Lincoln Avenue and Pascoe Avenue. At the time in 1998, site was currently use for storage of roofing company with a building on the property. The property was formerly Texaco Service Station Operation until sometime after 1973. The Texaco Income Tax Department was cited by the City of San Jose Bureau of Fire Prevention for improper abandonment of former service station in a letter dated August 1976. The former service station was later occupied by AVCAR Rental.

Between March and April of 1998 four underground storage tanks (UST) and associated piping was removed. According to Soil Tech Engineering Inc, four tanks (two 10,000 gallon gasoline, one 6,000 gallon gasoline and one 550 gallon waste oil and associated piping were removed from the property by Fuller Excavating and Demolition, Inc. According to the Case Closure Summary four tanks (two 10,000 gallon gasoline, one 6,000 gasoline and one 250 waste oil in addition to associated piping were removed on April 13, 1989. When USTs were removed, soil confirmation samples were taken. Soil analytical results showed one sample taken from beneath the former waste oil tank showed Total Oil and Grease (TOG) concentrations of 25 mg/Kg at a depth of 7 feet below surface, and one soil sample from beneath associated piping at approximately 2 feet below surface showed elevated levels of Total Petroleum Hydrocarbons as diesel (TPHd) at 2,500 mg/Kg; moderate levels of TPHg as gasoline at 250 mg/Kg and low levels of toluene, ethylbenzene and total xylenes at 4.8 mg/Kg, 11 mg/Kg and 85 mg/Kg respectively. An unknown amount of soil was excavated from the UST and destination of soil was not reported. Pump islands and island piping was left in place.

On May 6, 998, a preliminary site investigation was performed. Two soil borings were advanced at UST locations (B-4 and B-5), two soil borings each of the three pump islands, one at the north end and one at the south end of the island. The most east island had boreholes named from north to south B-7 and B-1 respectively, middle

island was B-6 and B-3 respectively and west island was B-5 and B-2. Additionally, one boring was advanced in the gasoline UST excavation (B-8). Each borehole was advanced between 38 and 39 feet. The full report documenting this investigation was not found on GeoTracker, and no data could be found on this event.

However, leaking Underground Storage Tank Oversight Program Special Programs granted case closure on September 8, 1998 with the following notes. It was noted that no metal analysis was conducted on soil or water samples taken from waste oil UST location, however Santa Clara Water District staff concluded that the Site does not pose a significant threat to groundwater exists at the site due to the lack of petroleum products in groundwater. Residual soil contamination present in soil does not appear to pose a threat to groundwater.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,16
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,20
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 for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16,28
f) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16

FINDINGS:

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

The proposed project would routinely use and store gasoline, diesel, and other hazardous substances (e.g. fuels, oils, and detergents) that would be present at the site. Materials such as solvents, paints, and fuels could also be utilized during project construction. However, the use of hazardous materials on the project site would not substantially change from the existing storage and use of materials on the project site. Storage capacity is proposed to change, with the addition of one 20,000-gallon underground storage tank. Nominal storage capacity of all the tanks include: one 20,000-gallon tank for regular unleaded gasoline, one tank split with 12,000 gallons of premium unleaded gasoline and 8,000 gallons of diesel fuel and one split tank of 10,000 gallons of regular unleaded gasoline and 10,000 gallons of E-85 Ethanol (alcohol/gasoline blend). However, similar to the UST and product piping installation in 2013, the addition of the 20,000-gallon underground storage tank will be double walled fiberglass with Weeder Root leak-detection system. Furthermore, compliance with applicable federal, state, and local handling, storage, and disposal requirements would ensure that no significant hazards to the public or the environment are created by the routine transport, use, or disposal of these substances.

(Less than Significant Impact)

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

The project site is designated as CP – Commercial Pedestrian under the City’s General Plan and is zoned Neighborhood/Community Commercial. This designation allows for a density of up to 3.5 FAR and 1 to 5 stories which the proposed project is consistent. Implementation of the proposed project would result in the redevelopment of a site with the same existing use. This General Plan designation allows commercial uses such as the proposed project and is consistent with development allowed under the existing land use designations. In the Neighborhood/Community Commercial zone, gasoline service station as a conditional use, which is included in the proposed project. As a result, the project would not conflict with any applicable land use plans, policies, or regulations. (Figures 4 and 5). An ESD Memorandum was submitted to subjected property on May 20, 2019 requesting discussion of risks from demolition of the current building which was thought to be constructed in the 1960s that used Lead Based Paint. As discussed earlier cultural resources section 4.5, the original structure was constructed in 1968; however, the structure as of today has undergone modifications including removal of a car service bay and demolition of the old structure and an addition of a convenient store in 2011. Due to physical changes 2011, there are no components that still exist from 1968 and the structure would not be considered eligible as an historic structure. Therefore, there are no indications that any of the structures have Lead Based Paint. Additionally, the structure that currently exists on site is planned to remain, with a few interior upgrades.

Asbestos Containing Materials and Lead-Based Paint

Development of the proposed project will require the demolition fuel dispensing system, and canopy on the site, which may contain asbestos containing materials (ACM) and/or lead-based paint (LBP) due to the age of the structure and the common use of these materials for building at this time. In conformance with State and Local laws, a visual inspection/pre-demolition survey, and possible sampling, will be conducted prior to the demolition of the building to determine the presence of ACM and/or LBP. Demolition done in conformance with these Federal, State and Local laws and regulations, will avoid significant exposure of construction workers and/or the public to ACM and LBP.

Standard Permit Conditions:

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of asbestos-containing materials and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing

lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

MITIGATION MEASURES:

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

Mitigation Measure HAZ-1: Per the Site Management Requirements on the Case Closure Letter from 2007, a notification must be provided to the Santa Clara County Department of Environmental Health (SCCDEH) and City's Planning Department prior to grading and demolition. The notification must include a statement that residual contamination exists on the property and list all mitigation actions, if any, necessary to ensure compliance with the site management requirements. The applicant must contact the SCCDEH to determine if the proposed project will impact the areas of contaminated soil and if further investigation and/or a Site Management Plan is required prior to demolition and/or grading. Evidence of the meeting such as email or letter shall be provided to the Director of Planning, or Director's designee, and the City's Environmental Compliance Officer.

(Less Than Significant 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?*

The proposed project is not located within one-quarter mile of a proposed or existing school.

(No Impact)

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?*

While the proposed project is a former site of contamination, it has been closed under the Low-Threat Closure Policy. It is not listed on the Cortese List²² pursuant to Government Code Section 65962.5 and with the implementation of HAZ-1 above, any potential contamination encountered is not anticipated to result in a significant impact.

(Less Than Significant Impact with Mitigation)

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 for people residing or working in the project area?*

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation. For the project site, any proposed structure of a height greater than approximately 70 feet above ground level (AGL) would trigger FAR Part 77 safety review by the Federal Aviation Administration (FAA). The maximum height of the proposed project would be well below 70 feet AGL and therefore, would not be subject to FAA review. The nearest airport is Norman Y. Mineta San Jose International Airport located approximately 7.6 miles north-northwest of the project. The project is located outside the Airport Influence Area. Another nearby airport is the Reid-Hillview Airport, which is located approximately 8.6 miles northwest of the project site. The project site is also not located within an airport land use plan referral area for that airport. The proposed project should not result in any safety hazard beyond what current exists at the project site and for the Eastridge Shopping Center.

(No Impact)

²² State of California Department of Toxic Substances Control. *Cortese List pursuant to Section 65962.5* (www.dtsc.ca.gov/SiteCleanup). Accessed March 2020.

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

The proposed project would not impair the implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

(Less Than Significant Impact)

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

The project site is not located within a wildland fire hazard area.

(No Impact)

CONCLUSION: Conformance with General Plan Policies and identified mitigation measures will ensure that hazards and hazardous material impacts would be reduced to a less than significant level at the time of future development of the site.

Figure 3 – Former Site Map



Legend

Estimated Groundwater Flow Direction

Approximate Property Boundary

Listed in the Regulatory Database *

Area of over-excitation (2006)

Presumed Area of Former In-ground Lifts

Former Oil/water Separator

Former Waste Oil UST

Former Dispenser Island

Former gasoline USTs

Former Soil Borings

Storm Drain

Current USTs

Current Fuel Dispensers

Subterranean Grease Trap

Monitoring Wells (destroyed)



Figure 2: SITE MAP

1103 Curtner Avenue, San Jose, California 95125

Project Number: 397582

AEI
Consultants

4.10 HYDROLOGY AND WATER QUALITY

REGULATORY FRAMEWORK:

Federal and State Water Protection Regulations

Clean Water Act and California's Porter-Cologne Water Quality Control Act

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

NPDES Permit Program

Any construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit (CGP), administered by the SWRCB. The CGP requires the installation and maintenance of Best Management Practices (BMPs) to protect water quality until the site is stabilized.

Under the provisions of the MRP, development projects that create or replace 10,000 square feet or more of impervious surfaces are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Provision C.3 of the MRP requires development projects that create or replace greater than 5,000 square feet of impervious surface to design and install Low Impact Development (LID) controls to treat post-construction stormwater runoff from the site. Examples of LID controls include rainwater harvesting/re-use, infiltration, and biotreatment. If the new/replaced impervious surface will be greater than 50 percent of the pre-project impervious surface area, stormwater treatment for the entire site will be required. If the new/replaced impervious surface for the project will be less than 50 percent of the pre-project impervious surface area, stormwater treatment for only the new/replaced area will be required.

The MRP also requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace 1 acre or more of impervious surface and are located in a sub watershed or catchment that is less than 65% impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations.

Regional

Santa Clara Valley Water District

On September 16, 2014, Governor Jerry Brown signed into law the Sustainable Groundwater Management Act (SGMA). The SGMA lists the Santa Clara Valley Water District (the District) as the exclusive groundwater management agency within its statutory boundary, which includes all of Santa Clara County. The District Board of Directors adopted a resolution to become the Groundwater Sustainability Agency (GSA) for the Santa Clara and Llagas sub basins, the primary sub basins within the county.

SGMA requires preparation of a Groundwater Sustainability Plan (GSP) for all medium and high priority basins. The 2016 Groundwater Management Plan²³ for the Santa Clara and Llagas Sub basins (GWMP) describes the district's groundwater sustainability goals, and the strategies, programs, and activities that support those goals.

²³ Santa Clara Valley Water District, *Groundwater Management Plan*, 2016

Local

City of San José General Plan Policies

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hydrology impacts resulting from planned development within the City. All future development allowed by the proposed land use designation changes will be subject to the hydrology policies of the City's General Plan, including the following:

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 include/es adequate measures to treat stormwater runoff.

Policy ER-8.4: Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.

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 ER-9.2: In consultation with the SCVWD restrict or carefully regulate public and private development in upland areas to prevent uncontrolled runoff that could impact the health and stability of streams.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-5.7: Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

Action EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Policy IN-3.9: Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

Post-Construction Urban Runoff Management (Policy 6-29): The City has developed policies that implement Provision C.3 consistent with the Municipal Regional Stormwater NPDES Permit (MRP). The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. Per the MRP and Council Policy 6-29, gas stations and car washes are Land Uses of Concern. Source Control Measures are required for Land Uses of Concern uses regardless of project size. This could include creating a 'treatment train' that includes mechanical filtration of urban runoff prior to release to a LID treatment measure.

Post-Construction Hydromodification Management (Policy 8-14): The City's Post-Construction Hydromodification Management Policy (8-14) implements Provision C.3, consistent with the MRP and requires an implementation framework for incorporating measures to control hydromodification impacts from development projects. Based on its location within a catchment and sub watershed greater than or equal to 65% impervious, the project would not be required to comply with the hydromodification requirements of Provision C.3 of the Municipal Regional Permit.

EXISTING STORMWATER CONDITIONS

The following discussion is based upon the *Storm Drainage Letter* prepared by Barghausen in March 2020. A copy of the report is attached in Appendix D of this document. The existing condition appears to show that there are no stormwater treatment measures on site. There are two stormwater drains located on site, one driveway incoming from Lincoln Avenue on the northwest entrance of the site and one on the driveway incoming from Curtner Avenue on the southeast entrance of the site.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16
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:					1,16
i. result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
iv. impede or redirect flood flows?					
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16, 29

FINDINGS:

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

The project shall comply with applicable provisions of the following City Council Policy 6-29 Post-Construction Urban Runoff Management and City Council Policy 8-14 Post-Construction Hydromodification Management. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San

Francisco Bay. The project site is approximately 0.45 acres in size and would not disturb more than one acre of soil; therefore, the project would not be required to obtain a NPDES General Permit for Construction Activities.

All development projects in the City are required to comply with the City's Grading Ordinance whether or not the project is required to obtain a NPDES General Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the project shall submit to the Director of Public Works an Erosion Control Plan Detailing Best Management Practices (BMPs) that shall prevent the discharge of stormwater pollutants.

Standard Permit Conditions:

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

Because construction of the proposed project would include the Standard Permit Conditions and actions identified above, the project would have a less than significant construction-related water quality impact.

(Less Than Significant Impact)

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

The project site is not a designated recharge area and implementation of the project would increase impervious surfaces on-site pre-project condition by 16,977 square feet and 15,644 square feet post project condition. Development and redevelopment of new commercial uses allowed under the General Plan is not proposed to occur within any of the SCVWD's percolation facilities for groundwater recharge nor would it affect the operation of the percolation or recharge facilities. The project is served by municipal water supplies and will not use groundwater resources. All runoff from the project site will be managed by the City's stormwater program. Implementation of the project would not interfere with groundwater recharge or cause a reduction in overall groundwater supply.

(No Impact)

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 erosion or siltation on- or off-site;*
- 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?*

The proposed project would not significantly alter drainage patterns on site compared to existing conditions. It would not affect a stream bed or river. As a result, the project would not substantially increase erosion or siltation or increase the rate or amount of stormwater runoff.

The City of San José is required to operate under a Municipal Stormwater NPDES Permit to discharge stormwater from the City's storm drain system to surface waters. On October 14, 2009, the San Francisco Bay RWQCB adopted the MRP for 76 Bay Area municipalities, including the City of San José.

The MRP (NPDES Permit No. CAS612008) mandates the City of San José use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff.

Provision C.3 of the MRP regulates the following types of development projects:

- projects that create or replace 10,000 square feet or more of impervious surface;
- Special Land Use Categories²⁴ that create or replace 5,000 square feet or more of impervious surface

The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

All development projects shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

Implementation of the following standard conditions, consistent with NPDES Permit and City Policy requirements, will reduce potential construction and post-construction impacts to surface water quality to less than significant levels:

- Prior to the commencement of any clearing, grading or excavation, the project shall comply with the SWRCB's NPDES CGP, as follows:
 1. The applicant shall file a Notice of Intent (NOI) with the SWRCB.
 2. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities. The SWPPP shall identify current construction-period Best Management Practices, as described in the CASQA Construction Handbook (August 2011).
- 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.
- Typical measures that will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include but are not limited to:
 1. Utilize on-site sediment control BMPs to retain sediment on the project site;
 2. Utilize stabilized construction entrances and/or wash racks;
 3. Implement damp street sweeping;
 4. Provide temporary cover of disturbed surfaces to help control erosion during construction;
 5. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

²⁴ Special Land Use Categories are defined as uncovered parking areas (stand-alone or part of another use), restaurants, auto service facilities, and retail gasoline outlets.

When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the SWRCB. The NOT shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

The project will not have additional impacts that would degrade water quality. See a) above.

(Less Than Significant Impact)

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

Based on the effective FEMA Flood Insurance Rate Maps for the City of San José²⁵, the project site is not located within a 100-year floodplain and would therefore have no impact on 100-year flows. Flood zone X is an area of moderate or minimal flood hazard. The project would not expose people to flood hazards associated with the 100-year flood. Furthermore, the project does not propose any housing.

While the project site is not located within a 100-year floodplain, portions of the City are susceptible to flooding depending on the control of dams upstream of the City. However, control of these dams is outside of the scope of this project and is governed by agencies. Additionally, the project site is located outside the inundation area for the Anderson Dam²⁶. Implementation of the proposed project would not expose people to additional flood hazards beyond those existing.

Due to the location of the project site, the project would not be subject to seiche or tsunami. In addition, the project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties.

(Less Than Significant Impact)

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

The project will obtain its water supplies from the Santa Clara Valley Water District, which is the SGA for the groundwater basin. As such, it will be in compliance with the District's policies and goals. The project will not conflict with or obstruct the District's implementation of the GSP.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies and Standard Permit Conditions will ensure that hydrology and water quality impacts would be reduced to a less than significant level at the time of future development of the site.

4.11 LAND USE AND PLANNING

REGULATORY FRAMEWORK

Local

City of San José General Plan Policies

Many of the policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the land use policies of the City's General Plan, including the following:

Policy LU-1.1: Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

²⁵ FEMA. *Flood Map Center*. (<http://msc.fema.gov/portal/home>). Accessed March 2020.

²⁶ Santa Clara Valley Water District, *Anderson Dam Inundation Maps*, 2016

Policy LU-1.2: Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Policy LU-6.1: Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses. Prohibit lands designated for industrial uses and mixed industrial-commercial uses to be converted to non-employment uses. Lands that have been acquired by the City for public parks, public trails, or public open space may be re-designated from industrial or mixed-industrial lands to non-employment uses. Within the Five Wounds BART Station and 24th Street Neighborhood Urban Village areas, phased land use changes, tied to the completion of the planned BART station, may include the conversion of lands designated for Light Industrial, Heavy Industrial or other employment uses to non-employment use provided that the Urban Village areas maintain capacity for the overall total number of existing and planned jobs.

Policy LU-6.2: Prohibit encroachment of incompatible uses into industrial lands and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues.

Policy LU-6.3: When new uses are proposed in proximity to existing industrial uses, incorporate measures within the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site.

Policy LU-6.4: Encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas with new industrial uses, particularly in locations which facilitate efficient commute patterns. Use available public financing to provide necessary infrastructure improvements as one means of encouraging this economic development and revitalization.

Policy LU-6.7: Encourage supportive and compatible commercial and office uses in industrial areas designated for those uses. In areas reserved for light and heavy industrial uses, only limited auxiliary and incidental commercial uses, such as small eating establishments, may be permitted when such uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.

Policy LU-6.8: Reserve industrial areas for industrial and compatible support uses, while recognizing that industrial uses come in a variety of types and forms. Allow non-industrial uses which are only incidental to and totally compatible with primary industrial uses in exclusively industrial areas. Consider allowing supportive, non-industrial activities, such as retail sales of materials manufactured or stored on site.

Policy LU-9.1: Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas. Consistent with Transportation Policy TR-2.11, prohibit the development of new cul-de-sacs, unless it is the only feasible means of providing access to a property or properties, or gated communities, that do not provide through- and publicly accessible bicycle and pedestrian connections.

Policy LU-9.5: Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.

Policy LU-9.7: Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the *Envision General Plan* Land Use / Transportation Diagram.

Policy LU-9.17: Limit residential development in established neighborhoods that are not identified growth areas to projects that conform to the site's Land Use / Transportation Diagram designation and meet Urban Design policies in this Plan.

In addition to the policies of the San José General Plan, future development allowed by the proposed land use designations would be required to comply with the San José Commercial Design Guidelines, which includes

parameters for setbacks, building design, landscaping, screening, and lighting, all of which are factors in ensuring land use compatibility.

EXISTING AND SURROUNDING LAND USES

The 0.45-acre project site is comprised of one parcel (APN 439-08-068) located at the northwest corner of Lincoln Avenue and Curtner Avenue in the City of San José. The site is currently an inactive gas station. The Site is bounded by multi-tenant commercial retail to the north, a park to the west, Lincoln Park to the west, Curtner to the south and Lincoln Ave to the west.

EXISTING LAND USE DESIGNATION AND ZONING

The project site is designated as CP--Commercial Pedestrian and under the City's General Plan it's zone as Neighborhood/Community Commercial.

The Neighborhood/Community Commercial designation supports a very wide range of commercial uses, which may develop at a wide range of densities. These commercial areas attract customers from the community and play an important fiscal and economic role for the City. This designation is applied primarily to commercial businesses that serve communities in the neighborhood. Commercial in this designation have uses and benefits that typically provide services and amenities, they include but are not limited to: neighborhood serving retail, commercial/professional office development, hospitals and private community facilities and general office use, with a density up to 3.5 FAR and 5 story building limits. This designation is also designed to promote connection to urban zones by encouraging walking or public transit.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,22,28

FINDINGS:

a) *Physically divide an established community?*

The proposed project includes the redevelopment of an existing and operating gas station. Therefore, it will not physically divide an established community.

(No Impact)

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?*

The project site is designated CP – Commercial Pedestrian under the City's General Plan and is zoned Neighborhood/Community Commercial. The Neighborhood/Community Commercial designation allows for a density up to 3.5 FAR and 1 to 5 stories, which the proposed project is consistent. Implementation of the proposed project would result in the redevelopment of a site with the same existing use. This General Plan designation allows commercial uses such as the proposed project and is consistent with development allowed under the existing land use designations. In the Neighborhood/Community Commercial, gasoline service station is permissible as a conditional use, which is included in the proposed project. As a result, the project would not conflict with any applicable land use plans, policies, or regulations.

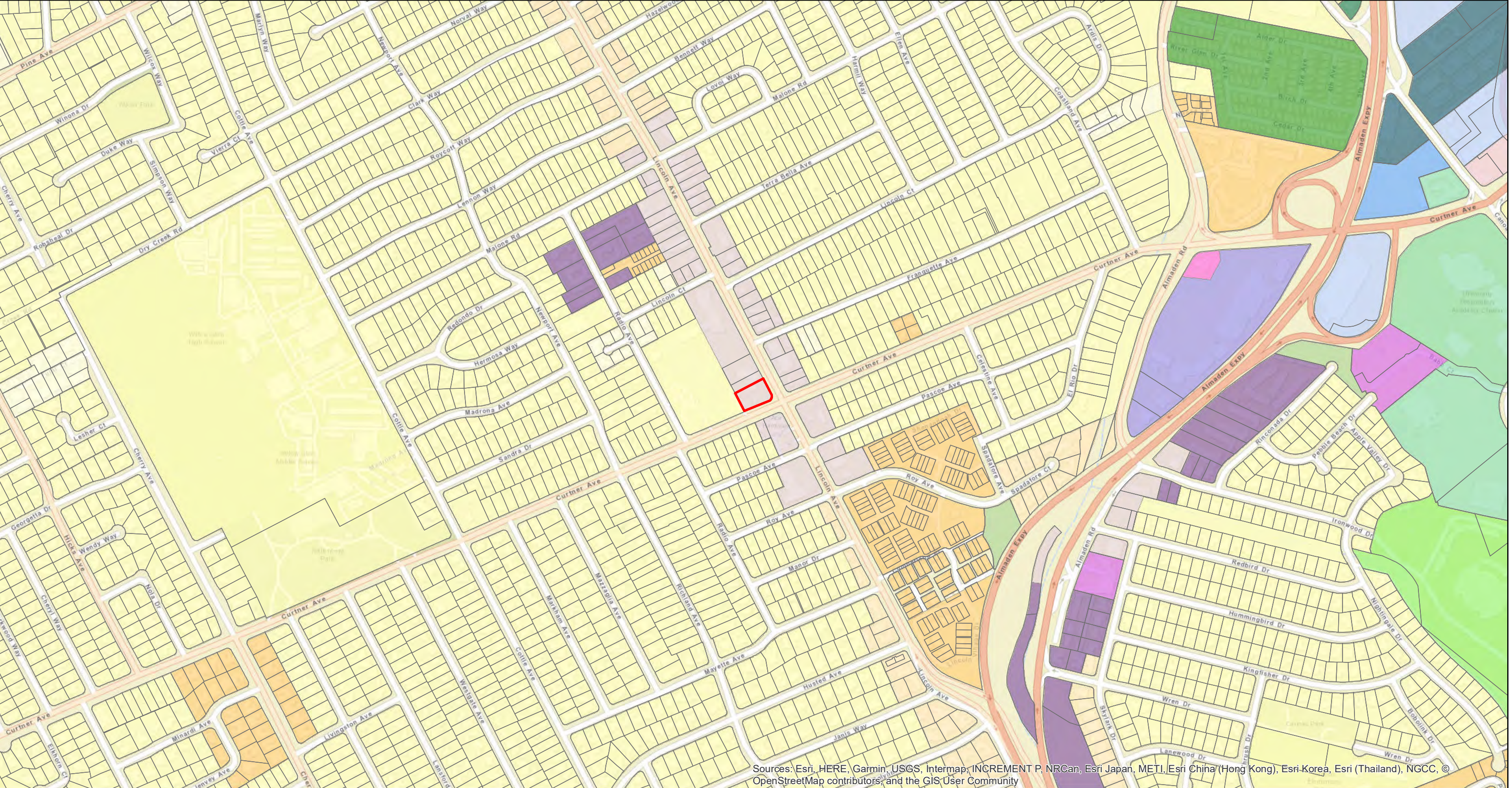
The project also falls outside the nearest Airport Influence Area of the Norman Y. Mineta San Jose International Airport CLUP. Therefore, there is no conflict between the project and the airport CLUP.

The project would not conflict with any habitat conservation plan or natural community conservation plan, as described in *Section 4.4 Biological Resources*.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that land use and planning impacts would be reduced to a less than significant level at the time of future development of the site.

Figure 4 – San Jose Zoning Map



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

Legend

1103 Curtner Ave

Parcel

Commercial General

Commercial Neig, , 6

Commercial Offi, , 4

Commercial Pedestrian

Industrial Park

Light Industria, , 14

Mobilehome Park, , 2

Multiple Reside, , 3

Planned Development, Commercial

Planned Development, Industry

Planned Develop, Mix, 18

Planned Development, OS

Planned Develop, PQP, 16

Planned Development, Residential

Planned Development, R-2 Medium to High Density

Planned Develop, Res, 3

Single-Family Residential

Two-Family Residential

Zoning data from City of San Jose GIS

0 250 500 1,000 1,500 2,000 Feet

FIGURE 3

San Jose Zoning Map
1103 Curtner Road
San Jose, CA

PROJECT NO. 200106230A	PREPARED BY MB	REF SCALE 1:6,000
DATE 3/24/2020	REVIEWED BY PM	MAP SCALE 1 inch = 500 feet

\\gis-s3\GIS_Data\Sandbox\Projects\A-E\CEQA\San Jose 1103 Curtner Ave\Layout\ZoningMap.mxd

Figure 5 – San Jose General Plan

4.12 MINERAL RESOURCES

REGULATORY FRAMEWORK

Local

City of San José General Plan Policies

Many of the policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating mineral resource impacts resulting from planned development within the City. All future development of extractive resources allowed by the proposed land use designations would be subject to the policies of the City's General Plan, including the following:

Policy ER-11.1: When urban development is proposed on lands which have been identified as containing commercially usable extractive resources, consider the value of those resources.

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

Policy ER-11.3: When making land use decisions involving areas which have a SMARA designation of regional significance, balance mineral values against alternative land uses and consider the importance of these minerals to their market region as a whole and not just their importance to San José.

Policy ER-11.4: Carefully regulate the quarrying of commercially usable resources, including sand and gravel, to mitigate potential environmental effects such as dust, noise and erosion.

Policy ER-11.5: When approving quarrying operations, require the preparation and implementation of reclamation plans for the contouring and revegetation of sites after quarrying activities cease.

EXISTING MINERAL RESOURCES

No mineral sources have been identified within 1000 feet of the site.

Would the project:

Issues	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Sources
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,16

FINDINGS:

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?

Extractive resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as containing mineral deposits which are of regional significance as a source of construction aggregate materials. The project

site is outside of the Communications Hill area and will therefore not result in a significant impact from the loss of availability of a known mineral resource.

(No Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that mineral resource impacts would be reduced to a less than significant level at the time of future development of the site.

4.13 NOISE

Noise Background

Because excessive noise levels can adversely affect human activities (such as conversation and sleeping) and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. The City of San José's General Plan contains goals and policies, which pertain to desired noise levels for various land uses located within the City.

A decibel (dB) is measured based on the relative amplitude of a sound. Ten on the decibel scale marks the lowest sound level that a healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis such that each 10-decibel increase is perceived as a doubling of loudness. The California A-weighted sound level, or dBA, gives greater weight to sounds to which the human ear is most sensitive. Lmax and Leq are used to define the maximum and average A-weighted noise levels during a measurement period, respectively. DNL (Day Night Average Sound Level) is the average equivalent sound level over a 24-hour period, with a penalty added for noise during the nighttime hours of 22:00 to 07:00; during the nighttime period 10 dB is added to reflect the impact of the noise.

Vibration Background

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

REGULATORY FRAMEWORK

Local

City of San José General Plan Policies




Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the noise policies of the City's General Plan, including the following:

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:

Interior Noise Levels:

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels:

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

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain “Normally Acceptable”; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.

Policy EC-1.3: Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Policy EC-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 Glen Eyrie Residential Project 88 Initial Study San Jose April 2020 risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance limits noise levels to 55 dBA Leq at any residential property line and 60 dBA Leq at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval.

EXISTING AMBIENT NOISE

Edward L. Pack Associates Inc. prepared a *Noise Assessment Study* for the subject site on November 13, 2017. Noise study is contained in Appendix E.

To determine the existing noise environment at the site, continuous recordings of the sound levels were made at three locations. Location 1 was at the front of the home at 1116 Curtner Avenue, which is directly across the street from the site and directly behind the ACE Hardware store. Location 2 was along the west property line contiguous with Lincoln Glen Park, 100 ft. from the centerline of Curtner Avenue. Location 3 was at the north property line behind the convenience store building 135 ft. from the centerline of Lincoln Avenue. This location was chosen for security of the sound measuring equipment.



Figure 2 from Noise Assessment Study

The measurements were made on Sunday October 8, 2017 for a continuous period of 24 hours and included measurements during the daytime and nighttime periods of the DNL index. Please note that the existing ambient noise levels were measured on a Sunday as this period has the lowest sound levels during the week. The lower the ambient noise environment, the more restrictive are the noise limits applied to the project. Based on measurements of existing ambient noise levels the exterior maximum ambient noise level was estimated at 65.6 dBA DNL which was measured at Location 1, south of the site across Curtner Ave in front of the residential

houses. General Plan Land Use surrounding the immediate area are as follows: north is zoned Neighborhood/Community Commercial with commercial businesses, south across Curtner Ave is zoned Neighborhood/Community Commercial with residential houses, east across Lincoln Ave is zoned Neighborhood Community Commercial with commercial businesses and West Private Recreation and Open Space with a community park. The ambient noise with a land use of office buildings is in the normally acceptable range of 55 dBA DNL to 70 dBA DNL, residential is in the conditionally acceptable range of 65 dBA DNL to 75 dBA DNL and outdoor areas normally accept 55 dBA DNL to 70 dBA DNL.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Generation of, excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,28

FINDINGS:

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

To assess how ambient noise levels will change, noise receptors were broken down in the following categories. A summary of combined noise effects concluded at the end of discussion question a.

Construction Noise

Construction noise impacts primarily result when construction activities occur during noise-sensitive times of day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction lasts over extended periods of time. Policy EC-1.7 of the City's General Plan requires that construction use best available noise suppression devices and techniques and limit construction hours near residential uses per the Municipal Code (7:00 a.m. and 7:00 p.m. Monday through Friday when construction occurs within 500 feet of a residential land use). 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) for more than 12 months.

Construction would be completed in one phase and is estimated to take 4 months. Noise from the construction of the proposed project could potentially pose a significant impact to the surrounding residential properties.

Consistent with the General Plan Policy EC-1.7 and Municipal Code, the project will implement the following standard permit conditions to reduce construction-related noise impacts.

Standard Permit Conditions:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Operational Noise

Ambient Conditions

The results of the calculations indicate that the noise exposure at measurement Location 1 at the residence at 1116 Curtner Avenue was 63 dBA DNL. The noise exposure at measurement Location 2 along the west property line was 62 dBA DNL. The noise exposure at measurement Location 3 along the north property line behind the convenience store building was 57 dBA DNL. The noise exposure along the north property line near the windows of the adjacent commercial building was calculated to be 63 dBA DNL.

Project Information

Noise generating source associated with the project include traffic entering and exiting the site for fueling, commercial fuel deliveries vehicles parking to visit the convenience store and the air-conditioner. There are no specifications for the air/water system. Therefore, this equipment could not be analyzed. The project is proposed for 24-hour operation. The air-conditioner is estimated to operate from 7:00 AM to 10:00 PM. Information on the project operations was provided by the project sponsor, which can be found as a supplemental document in the noise report.

Traffic Noise

The number of vehicles accessing the site was based on the volume of 115,000 gallons of fuel expected to be sold per month assuming an average of 15 gallons sold per vehicle. Therefore, the project is estimated to generate approximately 256 new family vehicle trips above existing conditions. For the purposes of this study, we are assuming that half of the vehicles will use the northerly pumps and half of the vehicles will use the southerly pumps. The TIA reports a peak hour (PM) volume of 24 vehicles (9.5% of ADT) and an AM peak hour volume of 16 vehicles (6.2% of ADT) entering the Project traffic noise on the local street system will be less than significant as the total daily volume of project traffic will be less than 1% of the daily traffic volumes on both Curtner Avenue and Lincoln Avenue. The project traffic noise will add less than 0.03 dB to the Curtner Avenue traffic noise levels and 0.02 dB to the Lincoln Avenue traffic noise levels. General Plan policy EC-1.2 states that an impact would occur if a project caused the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where the noise levels would exceed "Normally Acceptable", which for adjacent residential is less than 60 dBA DNL. Thus, the project would not exceed the City's threshold of an increase of 3 dBA DNL or more.

Parking Lot Noise

The project sponsor indicated that the volume of cars visiting the store only is approximately 1% of the number of vehicles accessing the site for fuel. This equates to 1 vehicle per hour from 7:00 AM to 3:00 PM, 2 vehicles per hour from 3:00 PM to 8:00 PM, 1 vehicle per hour from 8:00 PM to 7:00 AM with no vehicles expected in the 3:00 AM hour. Parking lot noise from patrons using the convenience store will be within 55 dBA DNL limit of the City of San Jose General Plan Goals and Policies Policy EC-1.3. Parking lot noise will not add to the noise environment at the residence at 1116 Curtner Avenue nor at the north property line. Parking lot noise will, however, add 1 dB to the noise environment at the west property line. The project-generated noise contribution to the existing noise environment will not increase existing ambient conditions by more than 3 dBA DNL and therefore are within the limit of the City of San Jose General Plan Goals and Policies Policy EC-1.2 and CEQA requirements.

Fuel Service and Driveway Noise

The primary source of noise associated with the project will be vehicles entering the site for fuel service and exiting the site once fuel service is complete. It is unknown how many of these vehicles will leave the pump islands and park in a parking space to visit the convenience store. Because of the short drive from the islands to the parking spaces and very low speeds, the noise created by this operation is negligible. The noise due to this fuel service consists of vehicular noise in the driveway, car doors closing and engines starting. Modern fuel dispensers generate very little sound and are often barely audible if at all standing next to a fuel dispenser. Vehicles will enter the site, drive at approximately 5 mph from the driveway to the pump island, the patron will exit the car, get fuel, enter the vehicle, close the door, start the engine and drive away. The results can be found on Table V of Noise Assessment Study, however projected noise exposure, dB, DNL, for this project at the residence at 1116 Curtner Avenue, at the Lincoln Glen Park property line and at the north property line near Lincoln Avenue, respectively is 38 dBA Leq, 47 dBA Leq and 51 dBA Leq. These are all below existing DNL and when combined, the DNL will be 63 dBA Leq, 62 dBA Leq and 63 dBA Leq respectively. The results of the analysis reveal that the project-generated noise exposures will be more than 10 decibels below the existing noise exposures. Thus, the project will not add to the existing noise environment. The project will be in compliance with Policy EC-1.2 of the City of San Jose General Plan Goals and Policies. The project will comply with CEQA guidelines. The project-generated noise exposures will not exceed the 55 dB DNL limit of Policy EC-1.3. Noise mitigation measures will not be required.

Mechanical Noise

Mechanical equipment information for the proposed project was not provided by the applicant and is not known at this time. The noise report uses the existing mechanical equipment specifications as a model for predicting project conditions, since the proposed project involves renovating and replacing an existing gas station and convenience store and not a new use.

The air-conditioner at the site is a Carrier 24ABB360W340 and is sound rated at 76dB PwL (A-weighted sound power on a hemispherical surface). Under an operational scenario of continuous operation from 7:00 AM to 10:00 PM, the noise exposure of 15 continuous daytime hours was calculated to be 49 dBA DNL at the north property line and 36 dBA DNL at the west property line. Thus, the noise exposure will be within the 60 dBA DNL limit of the City of San Jose General Plan Goals and Policies. The air-conditioner was not modeled to run 24 hours, as is the proposed use, because night time hours are generally cooler and do not necessitate the need for an air-conditioner. The air-conditioner noise will not add to the existing noise exposure in the parking lot of the adjacent commercial building nor at the west property line at Lincoln Glen Park.

At a distance of 8 ft. to the property line and an 8 dBA reduction factor for the attenuation provided by the current property line barrier, the air-conditioner noise level at the commercial property to the north will be up to 49 dBA. At the west property line, the air-conditioner noise level will be up to 36 dBA. Although not a CEQA threshold, the equipment noise level will be within the 55 dBA limit of the City of San Municipal Code standard for residential uses.

Combined Noise Exposures

Please reference the table below to see combined noise exposures generated by project from the following noise receptors as discussed above: fuel operations, convenience store, store parking, mechanical equipment, fuel service, and existing ambient noise levels.

Table X from Noise Assessment Study							
Combined Noise Exposures, dB DNL							
	Patron Fuel Operations	Convenience Store Parking	Mech Equipment	Commercial Fuel Service	Combined	Existing + Project	ΔdB
1116 Curtner Ave.	38	26	--	38	41	63	0
Lincoln Glen Park	47	54	36	54	57	63	1
North PL (west)	48	36	49	40	52	61	1
North PL (east)	51	26	--	--	51	63	0

The combined noise exposures at each of the receptor locations will be within the 55 dB DNL limit of Policy EC-1.3 at the residential receptor and within the 60 dB DNL limit of Policy EC-1.3 at the non-residential receptor locations.

The project will add 0 dB to the existing ambient noise environment at the residential receptor and the eastern end of the north property line (adjacent to the commercial building). The project will add 1 dB to the existing ambient noise environment at the west property line contiguous with Lincoln Glen Park 1 dB to the north property line behind the commercial building at their parking lot. The combined noise exposures will remain within the 60 dB DNL Normally Acceptable limit of the City of San Jose General Plan Goals and Policies standard of Policy EC-1.2.

As the project will be within the standards of the City of San Jose General Plan Goals and Policies EC-1.2 and EC-1.3, which includes the CEQA evaluation, noise mitigation measures will not be required.

(Less Than Significant Impact)

b) *Generation of, excessive ground borne vibration or ground borne noise levels?*

Ground borne noise is only expected to occur during construction and demolition. The project would not require extended periods of heavy equipment use or substantial noise-generating activities, such as pile-driving, that would continue for the duration of the construction period which is estimated between three to six months. However, to mitigate excessive noise, construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday to adhere to the Standard Permit Conditions.

Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.) may generate substantial vibration in the immediate vicinity of the work area. Jackhammers typically generate vibration levels of 0.035

in/sec PPV and drilling typically generates vibration levels of 0.09 in/sec PPV at a distance of 25 feet. Vibration levels would vary depending on soil conditions, construction methods, and equipment used. The City's General Plan Policy EC-2.3 establishes a vibration limit of 0.2 in/sec PPV for buildings of normal conventional construction. The California Department of Transportation recommends a vibration limit of 0.3 in/sec PPV for buildings that are found to be structurally sound and designed to be designed to modern engineering standards. With properties within 500 feet or more from the site the vibration levels would be expected to be less than 0.2 in/sec PPV, which is below the significance threshold.

Implementation of these Standard Permit Conditions would avoid potentially significant construction related noise and vibration impacts to adjacent residential receptors during demolition and construction activities; therefore, the proposed project would have a less than significant construction noise impact.

(Less Than Significant Impact)

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

The project area experiences occasional aircraft overflights largely associated with the aviation operations of Reid-Hillview Airport approximately 8.6 miles northeast of the airport and from the Norman Y. Mineta San José International Airport, which is located approximately 7.6 miles north of the project site. The site is currently developed as an inactive gas station and the proposed project would continue this use. Though the project site experiences some level of aircraft noise, both are located outside of the Airport Influence Area and 60 dB CNEL noise contour. The proposed project would not be exposed to excessive noise levels from aircraft overflights. The project is not in the vicinity of a private airstrip.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies and implementation of Standard Permit Conditions will ensure that noise impacts would be reduced to a less than significant level at the time of future development of the site.

4.14 POPULATION AND HOUSING

REGULATORY FRAMEWORK:

Local

City of San José Municipal Code

Based on California Department of Finance estimates for 2020, San José has a population of 1,043,058 persons²⁷. According to the City's General Plan, the projected population in 2035 will be 1.3 million persons occupying 429,350 households. The General Plan envisions adding 382,000 jobs by 2040. To meet the current and projected housing needs in the City, the General Plan identifies areas for residential development to accommodate 120,000 new dwelling units by 2040.

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

²⁷ State of California Department of Finance. *Estimates for 2020* (www.dof.ca.gov/Forecasting/Demographics/Estimates). Accessed March 2020.

EXISTING HOUSING:

No existing agriculture or forestry resources exist on site or within 100 feet of the site. Under the General Plan Use the Site is designated as Neighborhood/Community Commercial and Zoned as Commercial Pedestrian (CP). The regions surrounding the Site has a mosaic of residential homes and small apartment complexes many of which are directly adjacent to commercial properties.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Induce substantial 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,23
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,23
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,23

FINDINGS:

a) *Induce substantial 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 housing, necessitating the construction of replacement housing elsewhere?*

c) *Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?*

The proposed project would not induce substantial population growth because it does not involve the construction of any housing project nor does it significantly change employment levels in the community. Implementation of the project would not directly or indirectly induce substantial population growth in the project area. Therefore, the project would not result in an impact to population and housing.

(No Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that any potential impacts to population and housing would be reduced to a less than significant level at the time of future development of the site.

4.15 PUBLIC SERVICES

REGULATORY FRAMEWORK:

Local

City of San José Municipal Code

All future development allowed by the proposed land use designation changes will be subject to the following state law and City ordinances that offset the demand created by residential development upon schools and parkland, respectively:

Policy FS-5.6: When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.

Policy FS-5.7: Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy ES-3.8: Use the Land Use / Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.

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.

EXISTING PUBLIC SERVICES:

Public facilities including fire department, police department, school, parks and hospital already exist within 5 miles of the site. The site is served by Fire Station No. 6 within 1.5 miles northeast (approximately 5 minutes response time). San Jose Police Department is 5.1 miles north with an approximate response time of 8 to 15 minutes if officers are coming from the department office. The nearest school is Willow Glen High School located a mile west from the site. The nearest park is Lincoln Glen Park which shares the west wall with the Site. The nearest hospital is Santa Clara Valley Medical Center, located 4.5 miles northeast of the site. Willow Glen Branch Library is located 1.2 miles north of the site.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16

FINDINGS:

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

Fire Protection?

Police Protection?

Schools?

Parks?

Other Public Facilities?

The project site is located in an urbanized area of San José, and well served by existing Fire, Police, School, Park and other Public Facilities. To see details of all public services please refer to *existing public services* section discussed previously. The scope of the proposed project is redeveloping an existing gas station which is currently served by police and fire services as already discussed in the existing public services section. The proposed project would not significantly impact the response time or performance objectives for public services. The proposed project is consistent with the project site's General Plan land use designation and would not substantially increase demand for fire and police beyond what was assumed in the General Plan EIR. The proposed project would not increase the population of the City of San José, as the project does not consist of housing and no residents would reside on the project site. Therefore, implementation of the project would have no impact on the City's school, parks, and library services.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that public service impacts would be reduced to a less than significant level at the time of future development of the site.

4.16 RECREATION

REGULATORY FRAMEWORK

City of San José Municipal Code

All future development allowed by the proposed land use designation changes will be subject to the City of San José Parkland Dedication Ordinance (PDO) (Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO). These ordinances require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project in the City is required to conform to both the PDO and PIO.

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

EXISTING RECREATION:

Lincoln Glen Park is directly adjacent (west) to the Site. Along Curtner Ave, there is also Wallenberg Park and Wallenberg Community Garden 0.6 miles east of the Site. Parks within the vicinity also include Doerr Park 2.2 miles east-southeast, Kirk Park 2.2 miles southeast and Paul Moore Park located 1.8 miles south of the Site. Los Gatos Creek Trail, located approximately 4 miles east of the site, is also a recreational area near Lost Gatos Creek.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

FINDINGS:

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

Redevelopment of an inactive gas station within the CP, Commercial Pedestrian District could result in small net regular increase of attraction to the area including employees and customers. However, the project entails redevelopment a non-active gas station that's intended for commercial, not recreational use. The project does not include plans increase use of existing neighborhood, regional parks or other recreational facilities. Therefore,

is not expected to impact the use of existing parks or recreation centers such that deterioration would occur or be accelerated

(No Impact)

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

The project does not consist of recreational facilities or permanent housing that could add any potential for additional expansion projects

(No Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that recreation impacts would be reduced to a less than significant level at the time of future development of the site.

4.17 TRANSPORTATION

The following discussion is based upon a Traffic Impact Analysis prepared by J. Daniel Takacs, TR 1549 in December 2016. A copy of the report is attached in Appendix F of this document.

INTRODUCTION:

State

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle mile traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires an analysis of VMT as the metric for determining the significance of transportation impacts. SB 743 did not authorize Office of Planning and Research (OPR) to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50-mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional Policies

Metropolitan Transportation Commission: Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency of the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan (RTP), a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and the Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2040 in July 2017, which includes the area's RTP, *Transportation 2035: Change in Motion*²⁸.

Local

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating transportation and traffic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the transportation policies of the City's General Plan, including the following:

Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long lifespan. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.

²⁸ Metropolitan Transportation Commission. *Transportation 2035: Change in Motion*. April 2009.

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas. How this policy is applied and exceptions to this policy are listed in the following bullets:

- **Vehicular Traffic Mitigation Measures.** Review development proposals for their impacts on the level of service and require appropriate mitigation measures if development of the project has the potential to reduce the level of service to “E” or worse. These mitigation measures typically involve street improvements. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.
- **Area Development Policy.** An “area development policy” may be adopted by the City Council to establish special traffic level of service standards for a specific geographic area which identifies development impacts and mitigation measures. These policies may take other names or forms to accomplish the same purpose. Area development policies may be first considered only during the General Plan Annual Review and Amendment Process; however, the hearing on an area development policy may be continued after the Annual Review has been completed and the area development policy may thereafter be adopted or amended at a public meeting at any time during the year.
- **Small Projects.** Small projects may be defined and exempted from traffic analysis per the City’s transportation policies.
- **Special Strategy Areas.** In recognition of the unique characteristics and particular goals of Special Strategy Areas, intersections identified as Protected Intersections within these areas, may be exempt from traffic mitigation requirements. Special Strategy Areas are identified in the City’s adopted General Plan and include Urban Villages, Transit Station Areas, and Specific Plan Areas.

*City Council Policy 5-1 Transportation Analysis Policy (2018)*²⁹: The City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g. office, R&D) or residential project’s transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. For industrial projects (e.g. warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project’s VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

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

Council Policy 5-3 Transportation Level of Service Policy: The City of San José uses the same level of service (LOS) method for assessing transportation impacts as the VTA’s CMP, although the City’s standard is LOS D, rather than the LOS E standard within the CMP. According to this policy and General Plan Policy TR-5.3, an intersection impact would be satisfactorily mitigated if the implementation of measures would restore the level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (such as pedestrian, bicycle, and transit facilities). The City’s

²⁹ City of San José. *Transportation Analysis Policy* (Council Policy 5-1).

Transportation Impact Policy (also referred to as the LOS Policy) also protects pedestrian and bicycle facilities from undue encroachment by automobiles.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Conflict with a plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle or pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16, 25, 26
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,24,25
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,24
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

FINDINGS:

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

Pedestrian volumes along Curtner Avenue and Lincoln Avenue are relatively low. There are homeowners that live southwest of the Site across the street on Curtner Avenue. However, construction activities will not block off the sidewalk or biking lane on the other side of the street where the residences reside. Additionally, driving side and biking lane directly adjacent to the Site on Curtner Ave, construction activities are not expected to extend out past the property line where the sidewalk and street reside. Therefore, there would be little to no impact on the overall pedestrian circulation in the area.

No transit facilities are located along the site frontage and no impact would occur during construction.

Class II bike lanes are provided on Curtner Avenue and Class III bike routes are designated on Lincoln Avenue along the project frontage. The project is not proposing to make any modifications to the existing bicycle network. The project does not support large numbers of employees that might utilize mass transit and uses on site specifically cater to automobile traffic. The small increase in transit demand generated by the proposed project could be accommodated by the current available ridership capacities of the transit services in the project area, and no project-sponsored transit related improvements would be necessary.

(Less Than Significant Impact)

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

According to Appendix A of Transportation Analysis Policy 5-1, if the proposed project with a complete Universal Planning Application and a transportation work scope was approved prior to the effective date, 30 days after March 19, 2018, then the project is considered within the Interim Period which allows projects to proceed with the original transportation analysis that complies with previous Council Policy 5-3. A *Transportation Impact Analysis* that reviewed changes of LOS was created December 19, 2016 and approved by San Jose Planning Building and Code Enforcement on January 31, 2017, therefore this project is within the interim period and considered exempt of a VMT analysis. Please see Appendix F for the Traffic Impact Analysis with an attached approval from San Jose Planning, Building and Code Enforcement.

Furthermore, even under the updated Council Policy that requires a VMT, the project would be held accountable to Appendix B which details that in order to adhere to CEQA Guidelines Section 12126.2, it is required to prepare a detailed VMT analysis to all projects except for the following: small infill projects, local-serving retail, local-serving public facilities, transit supportive projects in planning growth areas with low VMT and high quality transit, restricted affordable, transit supportive residential projects in planned growth areas with high quality transit and transportation projects that reduce or do not increase VMT. The subject Site located at 1103 Curtner Ave fits the criteria for local-serving retail described as diverting existing trips from established local retail to new local retail without measurably increasing trips outside of the area and therefore is exempt of providing a VMT analysis due to insignificant transportation impacts considered by the policy.

(Less Than Significant Impact)

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

A detailed site plan is provided in Figure 2 which describes the orientation of the convince store, parking lots, canopy, multi-product dispensers, and air/water station. The existing conditions were reviewed relative to the two driveways currently used to enter and depart the site. The proposed project will remove two driveways nearest to the intersection of Curtner Ave/Lincoln Ave as well as reorient the fueling stations by reducing the multi-product dispensers to three. Access to the current gasoline station is provided by two driveways: one on the most northeast of the site on Lincoln Avenue and one on the most southwest of the site located on Curtner Avenue. Both driveways would be unsignalized and allow all turning movements.

A drive aisle is provided immediately adjacent to the service station building that will allow circulation between the east and west sides of the site as an alternative to the fueling station aisles. The solid waste receptacle is located at the northwest corner of the site and would be accessed from the Curtner Avenue driveway. Adequate on-site circulation would be provided for customers and service vehicles.

The convenience store would be situated in the north quadrant with the fueling positions oriented north-south. The fueling position access will be made in a two-way direction, from Curtner Avenue in a northeast direction and from Lincoln Avenue in a southwest direction, and signage and stripping will be provided to direct customers to the fueling lanes.

There are two parking locations, at the east and west boundaries of the site, that are near enough to the driveways that they could allow parking without entering near the fueling positions.

Fuel truck access could occur via both driveways available. The fuel tanks will be located just southwest of the convenience store. Fuel trucks can enter from Lincoln Avenue, pass the convince store by turning left to become parallel with the storage tanks and face the driveway of Curtner Avenue. Upon completion the fuel trucks will pull forward onto Curtner Avenue and leave the site. Additionally, fuel trucks could enter the site through the Curtner Avenue driveway and pull directly forward to the tanks. Upon completion of fueling operations, the fuel trucks could turn in a counterclockwise direction to leave the site through the Lincoln Avenue driveway.

Due to garbage bins being relatively close to the fueling tanks, a similar pathway described with the fuel trucks could be an optimal pathway for garbage trucks to enter and leave the site.

There are no plans for a car wash to be operational on site.

With these design features incorporated into the traffic design, the proposed project is not anticipated to substantially increase traffic hazards, therefore the project would not result in a significant impact.

(Less Than Significant Impact)

d) Result in inadequate emergency access?

The City of San José Fire Department requires that all portions of the buildings are within 150 feet of a fire department access road and requires a minimum of six feet clearance from the property line along all sides of the buildings. The proposed buildings on the site would be within 150 feet of a fire access road, and the project

would meet the six-foot requirement for building clearance on all sides. Further, the proposed project would not interfere with emergency response access on adjacent public roads and would not result in inadequate emergency access or response.

(Less Than Significant Impact)

Non-CEQA Considerations

The site is located in the northwest quadrant of the Curtner Ave/ Lincoln Avenue intersection. An Inactive 8-fueling position ARCO gas station is currently located on the project site. Curtner Avenue is a 4-lane undivided arterial in the vicinity of the project. It extends between Camden Avenue on the west to Monterey Road on the east where it continues easterly as Tully Road. The posted speed limit on Curtner Avenue in the vicinity of the project is 35 mph. Lincoln Avenue in the vicinity of the project is a 4-lane divided arterial. It extends between Almaden Expressway on the south and Park Avenue on the north. The posted speed limit on Lincoln Avenue in the vicinity of the project is 30 mph. Class II bike lanes are provided on Curtner Avenue and Class III bike routes are designated on Lincoln Avenue along the project frontage.

A field review was conducted at the site and the adjacent Curtner Avenue / Lincoln Avenue intersection. The field visits were conducted during a.m. and p.m. peak hours to observe the operation of the intersection and the project's driveways. Predominant traffic flow on the Lincoln Avenue is northbound during the AM peak period and southbound during the PM peak period. Predominant traffic flow on the Curtner Avenue is westbound during the AM peak period and eastbound during the PM peak period. The Curtner Avenue / Lincoln Avenue intersection appeared to operate acceptably with a drive through of the intersection being completed during both peak hours³⁰.

There are two Bus Routes (VTA) that operate on Curtner Avenue and Lincoln Avenue. Route 26 has a stop located on Curtner Avenue near the project site are located about 200 feet west of the project site for westbound service and just east of the Lincoln Avenue/Curtner Avenue intersection for eastbound service. Route 64 has a stop located Lincoln Avenue near the project site are located just south of the Lincoln Avenue/Curtner Avenue intersection for northbound service and on the project frontage for southbound service. Few pedestrians and bicycles were observed as the area does not appear conducive to these travel modes, given the high-speed roadway.

Class II bike lanes are provided on Curtner Avenue and Class III bike routes are designated on Lincoln Avenue along the project frontage.

Sidewalks are provided Lincoln Avenue and Curtner Avenue along the project frontage. The Lincoln Avenue/Curtner Avenue intersection signal system includes crosswalks and pedestrian countdown signals on all legs of the intersection.

Trip Generation and Distribution:

The development of this project will attract additional traffic to the project site. The amount of additional traffic on a particular section of the street network is dependent upon two factors:

- Trip Generation, the number of new trips generated by the project, and
- Trip Distribution and Assignment, the specific routes that the new traffic takes.

Project trip generation was estimated based on the Institute of Transportation Engineers' (ITE) Trip Generation handbook, 9th Edition, 2012. Data in the ITE Trip Generation Handbook indicates that 85-90% of the project trips will be "pass-by" or "diverted-link" trips coming from traffic already on the adjacent street system, and only 10-15% of the total trips would be considered primary "new" single purpose trips. However, per City traffic impact study guidelines, a discount was only applied for "pass-by" trips. Table 5 shows estimations for daily trips the

³⁰ J. Daniel Takacs *1103 Curtner Avenue Service Station Transportation Impact Analysis*.

project will generate. During AM peak hour 1,302 daily trips, with 82 trips (41 inbound & 41 outbound) whereas during the PM peak hour 108 daily trips (54 inbound and 54 outbound). The project will generate 652 daily external trips, with 32 external trips generated during the AM peak hour (16 inbound & 16 outbound) and 48 external trips generated during the PM peak hour (24 inbound & 24 outbound). It is noted that the project driveways will experience 100% of the total trips, but only the external trips would have a potential to impact traffic operations at the study intersection. With existing data, it's anticipated that the area wide distribution is estimated 25% from north/south Lincoln Avenue and east/west Curtner Avenue.

Table 5: Trip Generation Rates								
	Units	Daily Trips	AM Peak Hour			PM Peak HOUR		
			Inbound	Outbound	Trip Rate	Inbound	Outbound	Trip Rate
Service Station w/ convenience store	Per Fuel Position	162.75	50%	50%	10.16	50%	50%	13.51
Project Trip Generation								
	Size	Daily Trips	AM Peak Hour			PM Peak Hour		
			Inbound	Outbound	Trips	Inbound	Outbound	Trips
Restaurant	8 Fuel Positions	1,302	41	41	81	54	54	108
Subtotal Gross Trips			41	41	81	54	54	108
Pass by Trips (Daily 50%, AM:62%, PM 56%)		651	25	25	50	30	30	60
Total Net New External Trips		651	16	16	31	24	24	48

Project Driveways

Currently the Site consists of 4 non-operational driveways, however the project consists of removing the two driveways nearest to the intersection of Curtner Ave/Lincoln Ave to prevent traffic jams and to allow additional parking. The project will be accessed from one 32-foot-wide driveway on Lincoln Avenue and one 32-foot-wide driveway on Curtner Avenue. Both driveways would be unsignalized and allow all turning movements. The previous service station was accessed via two driveways to Curtner Avenue and to Lincoln Avenue. The 95th percentile queues for outbound movements and inbound left turn movements at the two study driveways are estimated to be less than one vehicle length during the AM and PM peak hours. Queue lengths for minor movements at unsignalized intersections are a function of the capacity of the movement and the volume of traffic served during the analysis period. Based on City of San Jose level of service standards, the study intersection is projected to operate at acceptable levels of service under Background and Background Plus Project Conditions. On the basis of the Background Conditions analysis, the project would not create significant impacts to the study intersection.

CONCLUSION: Conformance with the above General Plan Policies will ensure that traffic impacts would be reduced to a less than significant level at the time of future development of the site.

4.18 TRIBAL CULTURAL RESOURCES

REGULATORY FRAMEWORK:

Local

City of San José Municipal Code

On September 25, 2014, Governor Edmund G. Brown signed Assembly Bill 52 (AB 52), creating a new category of environmental resources (tribal cultural resources), which must be considered under CEQA. A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. The

legislation imposes new requirements for consultation regarding projects that may affect a tribal cultural resource, includes a broad definition of what may be considered to be a tribal cultural resource, and includes a list of recommended mitigation measures. AB 52 also requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified of projects proposed within that area. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

EXISTING TRIBAL CULTURAL RESOURCES:

The Native American Muwekma Ohlone Tribe ³¹is an extensive tribe that has resided in the Santa Clara County/San Francisco Region since the 1840s. However, no tribal cultural resource, feature, sacred place, or object of cultural value is known to reside on or directly adjacent to the Site location.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
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:					
i. 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), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,26
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16

FINDINGS:

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),*

³¹ Native American Muwekma Ohlone Tribe. *Map of Tribal Area of the Muwekma Ohlone Tribe of the San Francisco Bay Area*. <http://www.muwekma.org/home.html>. Accessed June 2020

Pursuant to the City General Plan, there are no known resources eligible for listed pursuant to Section 5020.1 (k) located in this area. Due to the disturbed nature of the site, it is unlikely that any eligible resources would be present on the proposed project's location.

(Less Than Significant Impact)

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

AB 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. At the time of the preparation of this Initial Study, no tribes have sent written requests for notification of projects to the City of San José except for in Coyote Valley and in the Downtown vicinity. Due to the distance of the project site from Coyote Valley and Downtown, the project would not have a significant impact on tribal cultural resources.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies and Standard Permit Conditions will ensure that cultural resources impacts would be reduced to a less than significant level at the time of development of the site.

4.19 UTILITIES AND SERVICE SYSTEMS

REGULATORY FRAMEWORK

Local

City of San José Municipal Code

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating utility-related impacts resulting from planned development within the City. All future development allowed by the proposed land use designations will be subject to the utilities and services policies of the City's General Plan, including the following:

Policy MS-3.2: Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

Action EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

In addition to the above-listed policies of the San José General Plan, new development in San José is required to comply with programs that mandate the use of water-conserving features and appliances and the City's Integrated Waste Management Program, which minimizes solid waste.

Electrical service to the site is provided by Pacific Gas and Electric Company. Sanitary and storm sewer are provided by the City of San José. Potable water is provided by San José Water Company.

EXISTING UTILITIES AND SERVICE SYSTEMS:

The existing facilities on Site are inactive, and no energy sources are being used. All underground utilities necessary for operation are already installed.

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Require or result in the relocation or construction of new or expanded water wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities or expansion of existing facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
c) Result in a determination by the wastewater treatment provider which 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16

FINDINGS:

a) *Require or result in the relocation or construction of new or expanded water wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities or expansion of existing 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?*

The proposed project only has a few facilities that would demand water supplies. Restrooms and sinks are the highest demanding facility, but due to limited number of employees and customers, water use is not foreseen to increase significantly. The proposed project also has no plans to add additional facilities, such as a car wash, that would increase water usage from previous use as a former gas station. Therefore, sufficient water supplies should be available to serve the site in the foreseeable future during normal dry and multiple dry years.

(Less Than Significant Impact)

c) *Result in a determination by the wastewater treatment provider which 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?*

The proposed project would not require construction of new facilities for wastewater treatment, storm drainage, water, or waste disposal because the subject site is located within the City of San José Urban Service Area where such facilities exist and have the capacity to serve the proposed project.

The General Plan FEIR determined that the three water suppliers for the City could serve planned growth under the City's General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply. The proposed project would be consistent with planned growth in the General Plan; therefore, implementation of the proposed project would have a less than significant impact on the City's water supply.

(Less Than Significant Impact)

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?*

Operation of the proposed project is anticipated to generate approximately the same amount of solid waste as the current use on site use. As concluded in the General Plan EIR, there is sufficient capacity at existing landfills which service the City to serve development under buildout of the General Plan. No new or expanded landfill facilities would be required as a result of this project. Solid waste production at the project site is not expected to substantially increase under the proposed project.

(Less Than Significant Impact)

CONCLUSION: Conformance with the above General Plan Policies will ensure that utility and service system impacts would be reduced to a less than significant level at the time of future development of the site.

4.20 WILDFIRE

INTRODUCTION:

Fire is a primary driving force that has shaped California's ecosystems for millennia, recurring at varying intervals in virtually all vegetation types. It is estimated that between 4.5 and 12 million acres burned annually prior to Euro-American settlement, although there was significant variability in pre-settlement fire regimes across vegetation types and regions. Wildland fire activity always has been closely connected to climate and continues to be an endemic part of natural systems of much of the state. Our continuing quest to manage these systems in the face of fire's inevitability requires both looking backward for patterns and successes and looking forward for new innovations and strategies.

REGULATORY FRAMEWORK:

State

California Department of Forestry and Fire Protection (Cal Fire)

The *California Fire Plan*³² was developed by Cal Fire in 2018 as the state's road map for reducing the risk of wildfire. The Fire Plan was a cooperative effort between the State Board of Forestry and Fire Protection and the California Department of Forestry and Fire Protection. By placing the emphasis on what needs to be done long

³² California Department of Forestry and Fire Protection (Cal Fire). *2018 Strategic Fire Plan for California*. 2018

before a fire starts, the Fire Plan looks to reduce firefighting costs and property losses, increase firefighter safety, and to contribute to ecosystem health.

The plan set forth eight goals, and each goal is meant to build upon the previous one (e.g., Goal 3 builds upon the accomplishments in Goals 1 and 2):

1. Identify and evaluate wildland fire hazards and recognize life, property and natural resource assets at risk, including watershed, habitat, social and other values of functioning ecosystems. Facilitate the collaborative development and sharing of all analyses and data collection across all ownerships for consistency in type and kind.
2. Promote and support local land use planning processes as they relate to: (a) protection of life, property, and natural resources from risks associated with wildland fire, and (b) individual landowner objectives and responsibilities.
3. Support and participate in the collaborative development and implementation of local, county and regional plans that address fire protection and landowner objectives.
4. Increase fire prevention awareness, knowledge and actions implemented by individuals and communities to reduce human loss, property damage and impacts to natural resources from wildland fires.
5. Integrate fire and fuels management practices with landowner/land manager priorities across jurisdictions.
6. Determine the level of resources necessary to effectively identify, plan and implement fire prevention using adaptive management strategies.
7. Determine the level of fire suppression resources necessary to protect the values and assets at risk identified during planning processes.
8. Implement post-fire assessments and programs for the protection of life, property, and natural resource recovery.

Cal Fire also produces maps depicting the Very High Fire Hazard Severity Zones³³ for that various counties in California.

Local

City of San José Municipal Code

The overall mission of the San José Fire Department is "To serve the community by protecting life, property, and the environment through prevention and response." The Bureau of Fire Prevention (BFP) contributes to this mission through its primary focus on key areas of responsibility that include; public education and outreach services, investigation of fires to determine cause and origin, and code compliance activities such as plan review and inspection. The BFP administers the Chapter 17-12 of the City code, Fire Code, among other code oversight.

The Envision San José 2040 General Plan sets forth various policies to help prevent wildland and urban fire hazards to help protect lives and property from risks associated with fire-related emergencies at the urban/wildland interface.

EC-8.1: Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.

EC-8.2: Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.

EC-8.3: For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable

³³ California Department of Forestry and Fire Protection (Cal Fire). *Very High Fire Hazard Severity Zones*. 2008.

level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.

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

PREVIOUS WILDFIRE EVENTS:

Major fire event has not occurred within this region within the last year. As discussed in public services section, the Site is currently served by Fire Station No. 6 within 1.5 miles northeast (approximately 5 minutes response time).

Would the project:

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,30
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,30
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,30,31
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,30,31

FINDINGS:

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

b) *Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

The project is the redevelopment of an existing facility that is situated in an urban area and as such is serviced by existing fire protection agencies from the City of San José. As such, it will not require any additional development of infrastructure nor will it interfere with any adopted emergency response plans.

(No Impact)

c) *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?*

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

The project is located in a flat area that is designated by Cal Fire as a non-fire hazard risk zone. There are no significant slopes or other factors that would exacerbate a fire on the site. While the facility will involve the dispensing of gasoline (a flammable liquid) all installations will comply with local and state building and fire codes and include the installation of fire suppression equipment as required.

(Less Than Significant Impact)

CONCLUSION: Conformance with the City building, and fire codes will ensure that risk from wildfire would be reduced to a less than significant level at the time of future development of the site.

4.21 MANDATORY FINDINGS OF SIGNIFICANCE

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,10
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,16
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

FINDINGS:

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

As discussed in the previous sections, the proposed project could potentially have significant environmental effects with respect to biological resources and hazardous materials. For biological resources, the project may impact migratory bird species therefore compliance with the MBTA, through project scheduling or nesting bird pre-construction survey. While bats are not known to roost in the building, mitigation measures will be implemented to ensure none are present when demolition and remodeling occurs. For hazardous materials, a notification must be provided to the Santa Clara County Department of Environmental Health (SCCDEH) and City's Planning Department prior to excavation planned for tank installation per the Site Management Requirements on the Case Closure Letter from 2007. The notification must include a statement that residual contamination exists on the property and list all mitigation actions, if any, necessary to ensure compliance with the site management requirements. The applicant must contact the SCCDEH to determine if the proposed project will impact the areas of contaminated soil and if further investigation and/or a Site Management Plan is

required prior to demolition and/or grading. Evidence of the meeting such as email or letter shall be provided to the Environmental Planner of City's Planning Department and the City's Environmental Compliance Officer.

With the implementation of the mitigation measures noted in the individual sections, these impacts would be reduced to less than significant.

(Less Than Significant with Mitigation Incorporated)

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.

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

The project would not impact agricultural, forestry, mineral, or recreational resources. Therefore, the project would not contribute to cumulative impacts to these resources. There are no planned or proposed developments in the immediate project site vicinity that could contribute to cumulative aesthetic, traffic, and noise and vibration impacts. The project's geology and soils, hazardous materials, hydrology and water quality, and noise impacts are specific to the project site and would not contribute to cumulative impacts elsewhere. There will not be a reduction in the number of jobs at the site could result in a contribution to a cumulative impact.

The project would emit criteria air pollutants and GHG emissions and contribute to the overall regional and global emissions of such pollutants. By its very nature, air pollution and GHG emissions are largely a cumulative impact. The project-level air quality thresholds identified by BAAQMD are the basis for determining whether a project's individual impact is cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. The project would have a less than significant impact on air quality. For this reason, the project would have a less than significant cumulative impact on air quality overall.

Overall, since the project will not conflict with any local or regional plans there is no expectation that there will be cumulative impacts. The purpose of the local and regional planning process is to avoid cumulative impacts by planning development of the City in a way that avoids such impacts. By complying with these plans the project ensures it will not result in cumulative impacts.

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

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

CONCLUSION: Conformance with the above General Plan Policies and mitigation measures outlined below will ensure that impacts would be reduced to a less than significant level at the time of development of the site.

Information Sources

1. Envision San José 2040 General Plan
2. San José Outdoor Lighting Policy (City Council Policy 4-3)
3. San José Residential Design Guidelines
4. Scenic Highway Program in the Streets and Highway Code, Sections 260 through 263
5. Department of Conservation Farmland Mapping and Monitoring Program (www.conservation.ca.gov/dlrp/fmmp)
6. BAAQMD's 2017 Clean Air Plan: Spare the Air, Cool the Climate
7. BAAQMD's 2017 CEQA Air Quality Guidelines
8. CARB Revised Emission Factors for Phase II Vehicle Refueling at California Gasoline Dispensing Facilities, December 23, 2013
9. Colorado Department of Public Health and Environment, Gasoline Station Emission Calculator
10. BAAQMD's Risk and Hazards Emissions Screening Calculator and Distance Adjustment Multiplier for Gasoline Dispensing Facilities, June 13, 2012
11. Santa Clara Valley Habitat Plan
12. US Fish and Wildlife Service (USFWS) iPAC website (www.ecos.fws.gov/ipac)
13. California Natural Diversity Database (www.wildlife.ca.gov/Data/CNDDDB)
14. San José Riparian Corridor Policy (Policy Number 6-34)
15. San José Tree Ordinance (Municipal Code 13.32)
16. Envision San José 2040 General Plan EIR
17. State of California's Geo-Hazard maps / Alquist Priolo Fault maps
18. Consetoga-Rovers & Associates Tank Removal Report, July 25, 2007
19. MTC Plan Bay Area 2040
20. Cortese List pursuant to Section 65962.5 (www.dtsc.ca.gov/SiteCleanup)
21. FEMA Flood Map Center (msc.fema.gov/portal/home)
22. City of San José Title 20 Zoning Ordinance
23. California Department of Finance estimates for 2018 (www.dof.ca.gov/Forecasting/Demographics/Estimates),
24. City's Transportation Level of Service Policy (Council Policy 5-3)
25. City's Criteria for the Review of Drive Through Uses (Policy 6-10)
26. MTC Transportation 2035: Change in Motion
27. Institute of Transportation Engineers, Trip Generation, 9th Edition
28. Comprehensive Land Use Plan, Reid-Hillview Airport. 2016.
29. Santa Clara Valley Water District. Groundwater Management Plan. 2016
30. Cal Fire Very High Fire Hazard Severity Zones, 2008
31. Cal Fire 2018 Strategic Fire Plan for California

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- BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017.
- BAAQMD. *Risk and Hazards Emissions Screening Calculator and Distance Adjustment Multiplier for Gasoline Dispensing Facilities*. June 13, 2012.
- CARB. *Revised Emission Factors for Phase II Vehicle Refueling at California Gasoline Dispensing Facilities*. December 23, 2013.
- California Department of Forestry and Fire Protection (Cal Fire). *2018 Strategic Fire Plan for California*. 2018
- California Department of Forestry and Fire Protection (Cal Fire). *Very High Fire Hazard Severity Zones*. 2008.
- City of San José. *Criteria for the Review of Drive Through Uses* (Policy 6-10).
- City of San José. *Grading Ordinance* (SJMC 17.04.280 thru 17.04.450).
- City of San José. *Envision San José 2040 General Plan*. May 2018.
- City of San José. *Envision San José 2040 General Plan Environmental Impact Report*. June 2011.
- City of San José. *Municipal Code*.
- City of San José. *Outdoor Lighting Policy* (City Council Policy 4-3).
- City of San José. *Residential Design Guidelines*. 1997
- City of San José. *Riparian Corridor Policy* (Policy Number 6-34).
- City of San José. *Transportation Analysis Policy* (Council Policy 5-1).
- City of San José. *Transportation Level of Service Policy* (Council Policy 5-3).
- City of San José. *Tree Ordinance* (Municipal Code 13.32).
- City of San José. *Zoning Ordinance* (Title 20).
- County of Santa Clara. *Comprehensive Land Use Plan, Reid-Hillview Airport*. 2016
- Emcon Associates. *Tank Removal Report*. June 1985.
- FEMA. *Flood Map Center*. (<http://msc.fema.gov/portal/home>). Accessed March 2020.
- Institute of Transportation Engineers. *Trip Generation, 9th Edition*. 2012.
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- Metropolitan Transportation Commission. *Transportation 2035: Change in Motion*. April 2009.
- Santa Clara Valley Habitat Agency. *Santa Clara Valley Habitat Plan*. August 2012.
- Santa Clara Valley Water District, *Anderson Dam Inundation Maps*, 2016.
- Santa Clara Valley Water District, *Groundwater Management Plan*, 2016
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State of California Department of Finance. *Estimates for 2018* (www.dof.ca.gov/Forecasting/Demographics/Estimates). Accessed March 2020.

State of California Department of Fish and Wildlife. *California Natural Diversity Database* (www.wildlife.ca.gov/Data/CNDDDB). Accessed March 2020.

State of California Department of Toxic Substances Control. *Cortese List pursuant to Section 65962.5* (www.dtsc.ca.gov/SiteCleanup). Accessed March 2020.

State of Colorado Department of Public Health and Environment. *Gasoline Station Emission Calculator* (www.colorado.gov/pacific/sites/default/files/AP_Gasoline-Station-EmissionsCalculator.xlsx). Accessed March 2020.

United States Fish and Wildlife Service (USFWS) iPAC website (www.ecos.fws.gov/ipac). Accessed March 20120.

Photographic Log

Figure 1: Aerial photo viewing north

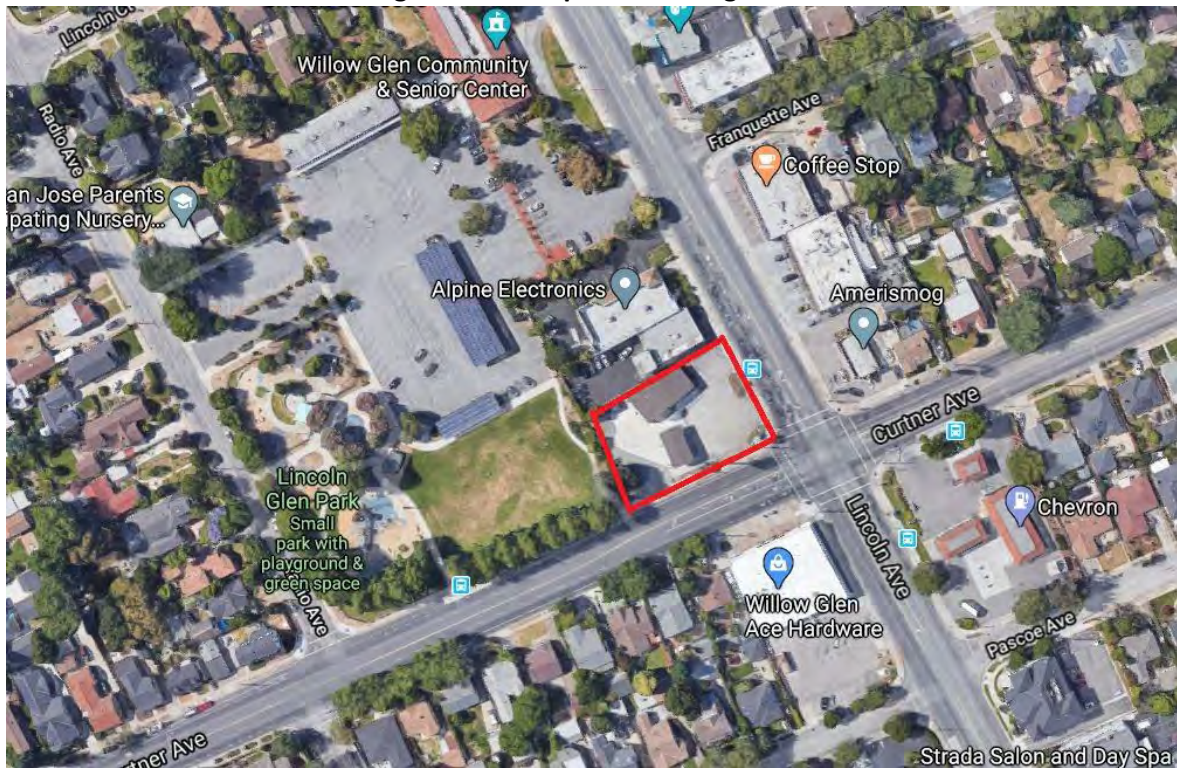


Figure 2: Aerial view facing west



Figure 3: View of south side of Site, going east on Curtner Avenue



Figure 4: View of west side of Site, going south on Lincoln Avenue



Figure 5: View of southeast corner of site, west bound on Curtner Ave at Curtner Ave/Lincoln Ave intersection



Figure 6: Onsite view of northeast corner of site



Figure 7: Onsite view of west side of property.



Appendix A - Air Quality Analysis Report

Appendix B - 1103 Curtner Avenue Natural Resource Review

Appendix C - Phase 1 AEI

Appendix D – Storm Drainage Letter

Appendix E – Noise Assessment Study

Appendix F – Traffic Impact Analysis