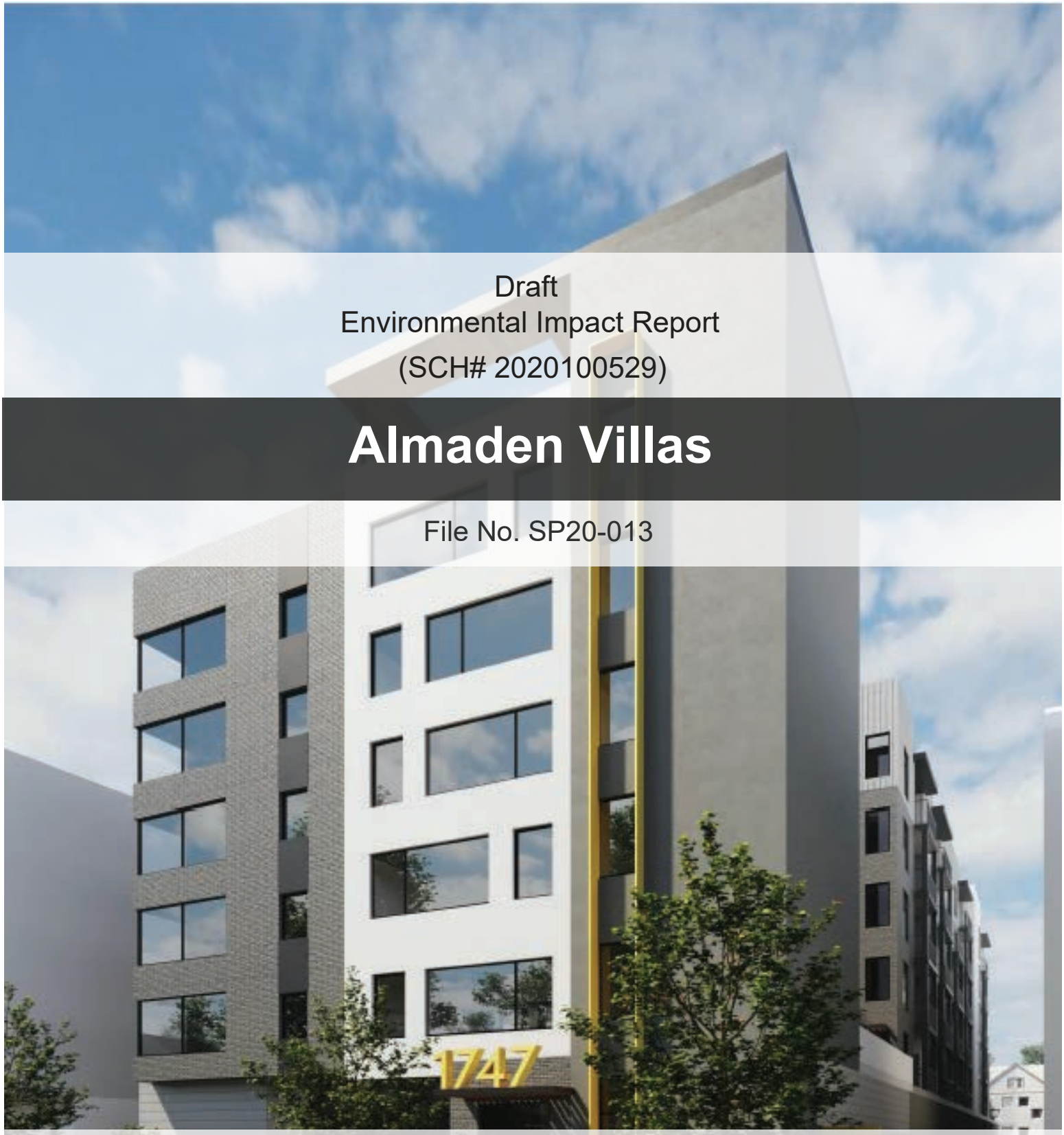
Draft
Environmental Impact Report
(SCH# 2020100529)

Almaden Villas

File No. SP20-013



CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

June 2021

This Page Intentionally Left Blank

Table of Contents

Figures

Tables

Appendices

This Page Intentionally Left Blank

SUMMARY

Introduction

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

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

Summary of the Project

The project is located on an approximately 0.57-gross-acre site at 1747 Almaden Road, south of downtown San José. The property is currently occupied by two vacant commercial buildings (approximately 1,500 square feet). The project is an application for a Special Use Permit to demolish the two existing structures and construct a six-story, multi-family residential building to accommodate 62 residential units with a podium-level parking garage. The Special Use Permit includes an application for a density bonus in order to allow 11 affordable housing units. The project also includes an application for a Tentative Map for condominium purposes.

Summary of Significant Impacts and Mitigation Measures

The following table is a summary of the potential significant environmental impacts identified and discussed in the EIR, and the mitigation measures proposed to avoid or reduce those impacts. The project description and full discussion of the impacts and mitigation measures can be found in Section 2.0 Project Description and Section 3.0 Environmental Setting, Impacts, and Mitigation of this EIR.

Summary of Impacts and Mitigation Measures	
Impact	**Mitigation Measure**
Air Quality	
Impact AQ-1: Project construction would result in an infant cancer risk of 31.8 in one million at the maximally exposed individual (MEI), which exceeds the BAAQMD significance threshold.	**MM AQ-1** Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant shall prepare a construction operations plan with equipment verified by an air quality specialist that demonstrates off-road equipment used on-site to construct the project would achieve a fleet-wide average of a 70 percent reduction or more in diesel particulate matter (DPM) exhaust emissions. Specifically, this plan shall include, but is not limited to, the measures identified below: • All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet

	U.S. EPA particulate matter emissions standards for Tier 4 engines. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs). The use of equipment that includes electric or alternatively-fueled equipment (i.e., non-diesel) would also meet this requirement. • Stationary construction cranes (building cranes) shall be powered by electricity. **Less Than Significant Impact with Mitigation Incorporated**
Biological Resources	
Impact BIO-1: Project construction, including the removal of four trees, that would occur during the breeding season could result in a significant impact to nesting raptors and other protected migratory bird species.	**MM BIO-1 Avoidance:** Prior to the issuance of any tree removal, grading, building or demolition permits (whichever occurs first), the project applicant shall schedule all 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching. **Nesting Bird Surveys:** If construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. 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 latter part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests. **Buffer Zones:** If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in coordination with 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 for raptors and 100 feet for other birds) to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The buffer zone shall remain in place until the qualified ornithologist determines the nest is no longer active or the nesting season ends. If construction ceases for 14 days or more during the early part of the breeding season (February 1st through April 30th, inclusive) or for 30 days or more during the late

	part of the breeding season (May 1st through August 31st, inclusive), then resumes again during the breeding season, an additional survey shall be necessary to avoid impacts to active bird nests that may have been established during the pause in construction. **Reporting:** Prior to any site disturbance, such as tree removal, or the issuance of any grading, building or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee. **Less Than Significant Impact with Mitigation Incorporated**
Cultural Resources	
Impact CR-1: The project may impact Native American archaeological deposits during excavation and construction activities.	**MM CR-1.1 Preliminary Investigation.** Prior to the issuance of any grading or building permits, a qualified archaeologist who is trained in both local prehistoric and historical archaeology shall complete a subsurface exploration of the project site commensurate with proposed disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist after the demolition of the existing commercial vacant buildings and removal of the asphalt on the parking lot. To explore for potential Native American resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed impacts, or until the soils and sediments are determined to be reliably culturally sterile. Archaeological monitoring may be necessary to examine deeper impacts. If any ground-disturbing activities are required for other environmental concerns or for potholing to identify previous utilities, utility removal, or any grading prior to subsurface archaeological explorations, an archaeological monitor shall be required. The investigation program, including an archaeological monitoring plan, if necessary, shall be submitted to the Director of Planning, Building and Code Enforcement of the Director's designee for review and approval prior to issuance of any grading or building permits. **MM CR-1.2 Treatment Plan.** Prior to the issuance of demolition and grading permits, the project applicant shall ensure implementation of the archaeological resources treatment plan by a qualified archaeologist. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. The Treatment Plan shall be prepared and submitted to the

	Director of PBCE or Director's designee. The treatment plan shall contain, at a minimum: • Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations. • Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found). • Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information). • Detailed field strategy used to record, recover, or avoid the finds and address research goals. • Analytical methods. • Report structure and outline of document contents. • Disposition of the artifacts. • Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading or building permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. **MM CR-1.3 Evaluation and Documentation.** During all ground disturbance or construction related activities, the project proponent shall notify the Director of Planning, Building and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Informative Center (NWIC), and/or equivalent. **MM CR-1.4 Technical Reporting.** Once all analyses and studies required by the treatment plan have been completed, a technical report summarizing the results of the field investigation and data recovery shall be prepared. The report shall document the results of field and laboratory investigations and shall meet the

	Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the treatment plan. The report shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of building permits. Once approved by the City, the final documentation shall be submitted to the Northwest Information Center (NWIC). **MM CR-1.5 Maintain Confidentiality**. As required under Public Resources Code (PRC) Section 21084.3, the project applicant shall protect the confidentiality of any resources discovered on-site. The treatment plan and all pertinent data and results shall not be available for public review or distribution. The site of any reburial of Native American human remains shall be kept confidential and not be disclosed pursuant to the California Public Records Act, California Government Code Section 6254.10, 6254(r). The County Medical Examiner shall also withhold public disclosure of information related to such reburials pursuant to the exemptions set forth in California Government Code Section 6254(e). **Less Than Significant Impact with Mitigation Incorporated**
Hazards and Hazardous Materials	
Impact HAZ-1: Hazardous materials may be present in onsite soils, which could be disturbed during project development. Release of these hazardous materials could result in exposure during construction or occupancy.	**MM HAZ-1** Prior to issuance of any grading permits, the applicant shall submit the Soil Management Plan (ACC, January 2021) to the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Municipal Environmental Compliance Officer of the Environmental Services Department for final review. The SMP contains measures to minimize construction worker exposure to impacted soils, confirm that on-site soils do not present a health risk to future occupants based on San Francisco Bay RWQCB residential screening levels for soil, identify protocols for handling and disposing of soil during construction, and dust suppression methods during soil disturbance. **Less Than Significant Impact with Mitigation Incorporated**
Noise and Vibration	
Impact NSE-1: Noise from rooftop mechanical noise equipment could exceed 55 dBA DNL at noise-sensitive land uses in the immediate project vicinity, which represents a potentially significant impact.	**MM NSE-1.1** Prior to the issuance of any building permit, the project applicant shall ensure all mechanical equipment and/or noise barriers are selected and designed to reduce noise impacts on surrounding uses by meeting the City's 55 dBA DNL noise limit requirements at the shared property line. The project applicant shall retain a qualified acoustical consultant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction

	measures to meet the City's requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and/or installation of noise barriers such as enclosures and parapet walls to block the line-of-sight between the noise source and the nearest receptors. The applicant's retained qualified acoustical consultant shall prepare a detailed acoustical study during final building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's requirements. The study shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permit. **Less Than Significant Impact with Mitigation Incorporated**
Impact NSE-2: Construction of the project would result in potentially significant, short-term noise impacts.	**MM NSE-2** The project contractor shall implement the following measures during construction: • Construction will be limited 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. • 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. • The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. • The unnecessary idling of internal combustion engines shall be prohibited. • Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors, such as residential uses (a minimum of 200 feet). • 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. • A "noise disturbance coordinator" shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site, which would also be included in the notice sent to neighbors regarding the construction schedule. • A "construction noise logistics plan," in accordance with Policy EC-1.7, would be required. Typical construction noise logistics plan would include, but not be limited to, the following measures to reduce construction noise levels as low as practical: o Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists. o Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. o Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment. o Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps. o If stationary noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used. Any enclosure openings or venting shall face away from sensitive receptors. o Ensure that generators, compressors, and pumps are housed in acoustical enclosures. o Locate cranes as far from adjoining noise-sensitive receptors as possible. o During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible. o Substitute nail guns for manual hammering, where feasible. o Substitute electrically-powered tools for noisier pneumatic tools, where feasible.

	○ The Construction Noise Logistic Plan, inclusive of the above, shall be signed by a qualified acoustical specialist verifying that the implementation measures included in this Plan meets the reduction to noise levels as required by this mitigation measure. **Less Than Significant Impact with Mitigation Incorporated**
<u>Impact NSE-3</u>: Typical construction equipment would have the potential to produce vibration levels of 0.2 in/sec PPV or more, potentially causing cosmetic damage of the non-historical buildings surrounding the site.	**MM NSE-3 Implement Construction Vibration Monitoring, Treatment, and Reporting Plan**: The project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed professional Structural engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures: • The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. • A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. • Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period. • Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within at least 25 feet of any adjacent building, as recommended by the retained licensed professional acoustical engineer. • Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed professional structural engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically: ○ Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all

	construction activities identified as sources of high vibration levels. o Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within at least 30 feet or more of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion of vibration generating construction activities, and shall include internal and external crack monitoring in the structures, settlement, and distress, and shall document the condition of the foundations, walls and other structural elements in the interior and exterior of said structures. • Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits. • At a minimum, vibration monitoring shall be conducted during demolition and excavation activities. • Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site. • Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. **Less Than Significant Impact with Mitigation Incorporated**

Summary of Alternatives to the Proposed Project

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines Section 15126.6 states that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project, but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with the incorporation of mitigation. A summary of project alternatives follows. A full analysis of the project alternatives is provided in Section 8 Alternatives of this EIR.

No Project Alternative

Because the No Project Alternative would not result in any new development on the project site, this Alternative would avoid all the environmental impacts from the project, assuming no physical changes are made to the site. However, this Alternative would not meet any of the project objectives to provide additional housing, including affordable units, in the City of San José.

Reduced Project Alternative

The Reduced Project Alternative would involve a reduce residential multi-family project with a reduction in the number of units on-site and building height. This Alternative would allow development of a four-story, residential building consisting of 40 residential units and parking for an estimated 59 vehicles. The affordable housing would also be reduced to approximately eight units.

The Reduced Project Alternative could decrease the intensity of the project's environmental impacts, however it would generally not avoid the project's environmental effects. Development of the approximately 0.57-gross acre site with the smaller building would still result in the same significant environmental impacts as the project. The Reduced Project Alternative would lessen impacts related to the decrease residential units, including a reduction in traffic generation, potential reduction in construction air pollutants, potential decrease in operational noise from mechanical equipment, and a minor decrease in visual effects from a shorter building height. However, implementation of the mitigation measures identified for the project and this alternative would reduce all impacts to a less than significant level. The Reduced Project Alternative does not fully meet the project objectives because it reduces the size of the proposed residential project by 22 units, including approximately eight affordable units.

SECTION 1 INTRODUCTION

1.1 Purpose of the Environmental Impact Report

The City of San José, as the lead agency, has prepared this Draft Environmental Impact Report (EIR) for the Almaden Villas Project ("project" or "proposed project") in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. In accordance with CEQA Guidelines Sections 15060-15064 and CEQA Guidelines Section 15081, the City of San José, as the lead agency, determined the project may have a significant impact on the environment and initiated the preparation of an Environmental Impact Report. The decision to prepare an EIR is based on substantial evidence and in light of the whole of the record before the lead agency.

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

1.2 EIR Process

1.2.1 Notice of Preparation and Scoping

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for the EIR. The NOP was circulated to local, state, and federal agencies on October 29, 2020. The standard 30-day comment period concluded on November 30, 2020. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on November 12, 2020 to discuss the project and solicit public input as to the scope and contents of this EIR, with 12 members of the public in attendance. Appendix A of this EIR includes the NOP and comments received on the NOP. See the table below for summaries of NOP comments.

Summary of NOP Comments		
Date	**Commenter**	**Summary of Comments**
10/27/2020	Heidi Gomozias	Commenter expresses concern with current frequency and possible increase of speeding vehicles along Willow Glen Way as a result of the project. Commenter suggests installation of electronic speed limit signs near the project.
11/3/2020	Native American Heritage Commission	Commenter provides summary of tribal notification requirements under AB 52 and SB 18. Commenter recommends consultation with California Native American tribes that are traditionally and culturally affiliated with geographic area where the project is located.
11/4/2020	County of Santa Clara Parks and Recreation Dept.	Commenter states that the proposed project would not appear to result in impacts to the *Santa Clara County Countywide Trails Master Plan Update*.

Summary of NOP Comments		
Date	**Commenter**	**Summary of Comments**
11/10/2020	Heidi Gomozias	Commenter requests that impacts related to increased traffic, speeding, and adverse environmental impacts be evaluated in the EIR. Commenter expresses interest in coordinating neighborhood meeting to secure funding to add speed reducing devices such as signage, electronic speed signs, and speed humps.
11/12/2020	Kate Kosoglow	Commenter expresses concern over the size and density of the project considering close proximity to single-family residences on Guadalupe Avenue. Commenter provides suggestions for potential changes to the project design to alleviate these concerns, including prohibiting balconies on the side of the building facing Guadalupe Avenue.
11/12/2020	Rich Kosoglow	Commenter expresses concern over the increase in traffic as a result of the project. Commenter also concerned with the proximity of the project to his single-family residence and requests a greater setback. Commenter indicates that they provided the developer with input regarding landscaping for increased privacy.
11/13/2020	Pacific Gas & Electric Company	Commenter states that the project does not appear to infringe upon PG&E easement right or existing facilities.
11/23/2020	Valley Water	Commenter encourages developer to institute project features to minimize runoff, utilize recycled water, and conserve water. Commenter notes requirement to use best practices when installing new impervious paved areas. Commenter suggests utilizing an alternate species of tree for building frontage, citing space concerns for mature trees. Comment notes that the project is located in Zone D and confirms that Valley Water does not have any facilities or right-of-way within the project site.
11/30/2020	William D. Ross	Commenter questions the lack of availability of the Initial Study for the project and states that there is no indication of why the City changed their conclusion and prepared an EIR for the project. Commenter asserts that noticing for the public scoping meeting was insufficient due to technical issues with the meeting platform. Commenter claims that these issues constitute a violation of procedural and substantive due process.

1.2.2 Draft EIR Public Review and Comment Period

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

City of San José, Department of Planning, Building and Code Enforcement
Attn: Reema Mahamood, Environmental Project Manager
200 East Santa Clara Street, 3rd Floor Tower
San José CA 95113-1905
Email: Reema.Mahamood@sanjoseca.gov

1.3 Final EIR/Responses to Comments

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

- Revisions to the Draft EIR (DEIR) text, as necessary;
- List of individuals and agencies commenting on the DEIR;
- Responses to comments received on the DEIR, in accordance with CEQA Guidelines (Section 15088); and
- Copies of letters received on the DEIR.

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

1.3.1 Notice of Determination

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15094(g)).

This Page Intentionally Left Blank

SECTION 2 PROJECT DESCRIPTION

2.1 Baseline Conditions

The technical analyses for the project were prepared using information reflective of pre-COVID conditions, prior to the enaction of State and local shelter-in-place orders. Air pollution, noise levels, and traffic congestion have decreased compared to pre-COVID conditions. Because the future air pollutant, noise, and traffic estimates are based on pre-COVID levels, the technical analyses represent conservative evaluations.

2.2 Project Location and Existing Setting

The project site is located within the City limits of San José, in Santa Clara County, California. The project is proposed on an approximately 0.57-gross acre site at 1747 Almaden Road south of downtown San José (refer to Figure 1). The site has an Assessor's Parcel Number (APN) of 455-03-003 (refer to Figure 2). The property is currently occupied by two vacant commercial buildings that have recently been occupied by auto body and repair shops. An aerial photograph of the project site and surrounding area is presented in Figure 3. The project is located in a developed area and is surrounded primarily by multi-family residential uses with single-family residences to the west. Major nearby roadways include Almaden Road, Willow Glen Way, Guadalupe Avenue, and State Route 87.

2.3 Project Description

The project is an application for a Special Use Permit to demolish the two existing structures and construct a six-story, multi-family residential building to accommodate 62 residential units with a podium-level parking garage on the approximately 0.57-gross acre site.[1] The project also includes an application for a Tentative Map for residential condominium purposes. A site plan for the proposed project is presented in Figure 4, and floor plans are provided in Figures 5a to 5d. The proposed building would consist of an approximately 90,323 square-foot, six-story building including an above-grade parking garage on the ground floor. Eleven units (20% of the total provided units on-site) would be designated for affordable housing.[2] The proposed breakdown of units by bedroom type is provided below:

Unit Type	No. Units
1-bedroom	29
2-bedroom	27
3-bedroom	6
Total	62

Elevations of the proposed project are presented in Figures 6a and 6b. The building would have a maximum height of approximately 77 feet (from grade to top of elevator and stairwell). The building steps down to two-stories in height at the rear of the property that abuts single-family residential uses.

[1] The project has been reduced slightly since completion of the technical studies for this project (from 64 to 62 units). This decrease does not change the results of the technical studies as these studies evaluated the original, larger configuration of the project and represent a conservative analysis.

[2] In accordance with the California Density Bonus Law and Municipal Code Section 20.190, housing developments that designate 20% of the units of a housing project for for-sale affordable moderate-income households can receive up to 15% density bonus over the maximum allowed density. In this case, the project would be permitted to exceed the maximum General Plan density of 95 du/ac to 109.25 du/ac for a total of 62 units (rounding up to the nearest unit per State law).

The general architectural style of the proposed building is modern. Building materials proposed would include glass, steel, concrete, and stucco.

The project also proposes approximately 6,166 square feet of residential common open space in common garden and patio areas and approximately 6,552 square feet of private open space in the form of balconies. Two common use outdoor activity areas are proposed as part of the project: 1) a ground-level garden area, which is located at the back of the project site; and 2) a second-floor community deck area, which is located along the northeastern building façade and would be surrounded by the proposed building on three sides.

Construction equipment expected to be used (along with the expected quantity of each unit) during project construction will include:

- Concrete/Industrial Saw (1)
- Excavator (1)
- Grader (1)
- Rubber-Tired Dozer (1)
- Tractor/Loader/Backhoe (1)
- Scraper (1)
- Excavator (1)
- Tractor/Loader/Backhoe (1)
- Tractor/Loader/Backhoe (1)
- Excavator (1)
- Crane (1)
- Forklift (1)
- Generator Set (1)
- Tractor/Loader/Backhoe (1)
- Welder (1)
- Air Compressor (3)
- Aerial Lift (2)
- Man Lift (1)

Lighting. Exterior lighting is proposed for the building for security and safe access. All outdoor exterior lighting would conform to City Council Policy 4-3: Outdoor Lighting on Private Developments and the Zoning Ordinance lighting requirements under Municipal Code Section 20.40.530 and 20.40.540.

Utilities. The project includes the provision of services and utilities to serve the project, including water, storm drainage, wastewater, and solid waste. A stormwater control plan is proposed that directs runoff to stormwater treatment systems prior to flowing into the City's storm drainage system, as shown in Figure 7. This consists of directing runoff to landscaped areas including biotreatment planters.

Grading. Development of the project would involve the grading of 2,500 cubic yards (CY) of cut and 1,200 CY of imported fill. The project would include 20 cubic yards of soil export during site preparation and 540-cubic yards of soil export during grading.

Public Improvements. The project proposes new sidewalk, curb, gutter, and street landscaping along the Almaden Road frontage. In addition, the project would construct new driveway access and install utility service laterals for stormwater, potable water, sewer, and gas and electric.

Landscaping. A landscape plan has been prepared for the project as shown in Figures 8a and 8b. Landscaping is proposed for the first-floor garden areas and within the proposed 2nd floor patio. The site contains four trees (species *Alianthus altissima)*, two of which are ordinance size, that would be removed as part of the project. Ordinance trees removed from the project site would be replaced at a 4:1 ratio, while the other two trees would be replaced at a 2:1 ratio, for a total of 12 replacement trees.

Construction. The project is scheduled to start construction in 2021 and complete construction within approximately 19 months. Construction would include demolition, site preparation and grading, building construction, paving, and architectural coating. During project construction, typical construction equipment that would be used on the project site would include backhoes, dozers, pavers, concrete mixers, trucks, air compressors, saws, and hammers. No pile driving is proposed during construction. Approximately 290 one-way cement truck trips would occur during building construction; however, at any given time, no more than 5 trucks would be anticipated. 20 cubic yards of soil would be exported during site preparation and 540-cubic yards of soil would be exported during grading. The provided construction schedule assumed that the project would be built out over a period of approximately 19 months, beginning in 2021.

2.3.1 General Plan and Zoning

2.3.1.1 *General Plan*

The project site is designated as *Urban Residential* under the City's *2040 Envision General Plan.* The *Urban Residential* designation allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. This designation supports medium-density residential development at 30-95 dwelling units (du) per acre, with a floor area ratio (FAR) of 1.0 to 4.0 and 3 to 12 stories.

2.3.1.2 *Zoning*

The project site is located in an area with a R-M Multiple Residence District zoning. The R-M Multiple Residence Zoning District is intended for construction, use, and occupancy of higher density residential development.

2.3.2 Residential Development

The proposed development involves the construction of 62 residential units in a six-story building with a single-level podium garage. Residential units would be constructed in a mix of one, two, and three-bedroom configurations. The general architectural design of the proposed building is modern, with glass, stucco, concrete, and metal facades. Residential parking would be provided in a single-level garage built into the residential building. The residential density would be approximately 106 dwelling units per acre.

2.3.3 Parking

Vehicular access to the project site would be provided via a full-access driveway on Almaden Road into the proposed garage. The project proposes one level of podium (ground-level) parking, which would provide 87 parking spaces. The project proposes an alternative parking arrangement including the use of puzzle lifts and stacked lift parking to provide 87 parking spaces on the ground-floor. The anticipated alternative parking arrangement is as follows:

- 47 Puzzle Lift Spaces
- 34 Lift Parking Spaces (Dependent Parking)
- 4 Guest Parking Spaces
- 2 Americans with Disabilities Act-compliant (ADA) Parking Spaces

The project proposes 20 long-term bicycle parking spaces in the garage, and an additional nine short-term bike racks located outside the building facing Almaden Road.

2.3.4 Site Access

2.3.4.1 *Automobile Access*

Automobile access to the proposed project site is provided via Almaden Road, as shown on Figure 4. The project would involve construction of a new paved driveway to access the parking garage from Almaden Road.

2.3.4.2 *Bicycle and Pedestrian Access*

Pedestrian and bicycle access to the proposed project site is provided through sidewalks along Almaden Road. A street-facing entrance to the proposed residential building and short-term outdoor bicycle racks are identified on Figure 4.

2.4 Project Objectives

The objective of the project is to construct new residential development in an in-fill environment, with 20% of the units designated for affordable housing, to help meet the current demand for housing in San José. Specifically, the project's objectives are to:

- Provide a project that meets the strategies and goals of the 2040 General Plan of locating high density development on infill sites near public transit.
- Provide affordable housing near public transit to encourage future residents to rely on alternative transportation to individual vehicles.
- Provide on-site community benefits for the residents including outdoor courtyards, private dog run, club room, community deck, community kitchen facilities, common room, and fitness areas.
- Provide bicycle parking for residents to help support the goals of the 2040 General Plan in promoting San José as a great bicycling community.
- Assist the City of San José to satisfy its capital regional housing needs allocation for below market rate housing units.

2.4.1.1 *Project-Related Approvals, Permits, and Clearances*

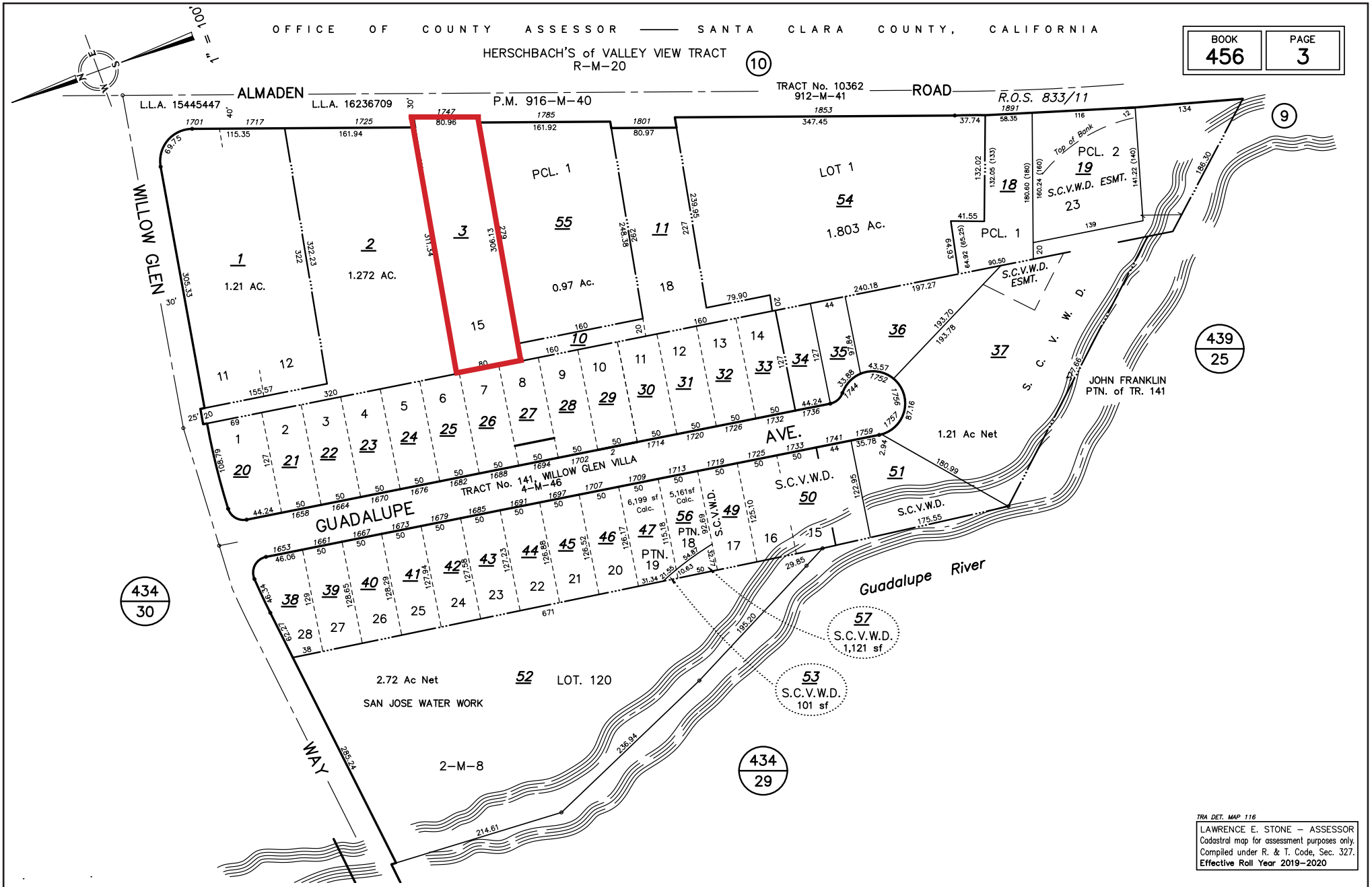
The City of San José is the Lead Agency with responsibility for approving the proposed project. This EIR will be relied upon for, but not limited to, the following project-specific discretionary approvals necessary to implement the project as proposed:

- Special Use Permit,
- Tentative Map for condominium purposes
- Public Works Clearance(s): Grading Permit

Regional Map

Figure 1

Almaden Villas
Draft EIR



Project Boundaries

Source: Office of the Assessor, County of Santa Clara, August 2019

APN Map

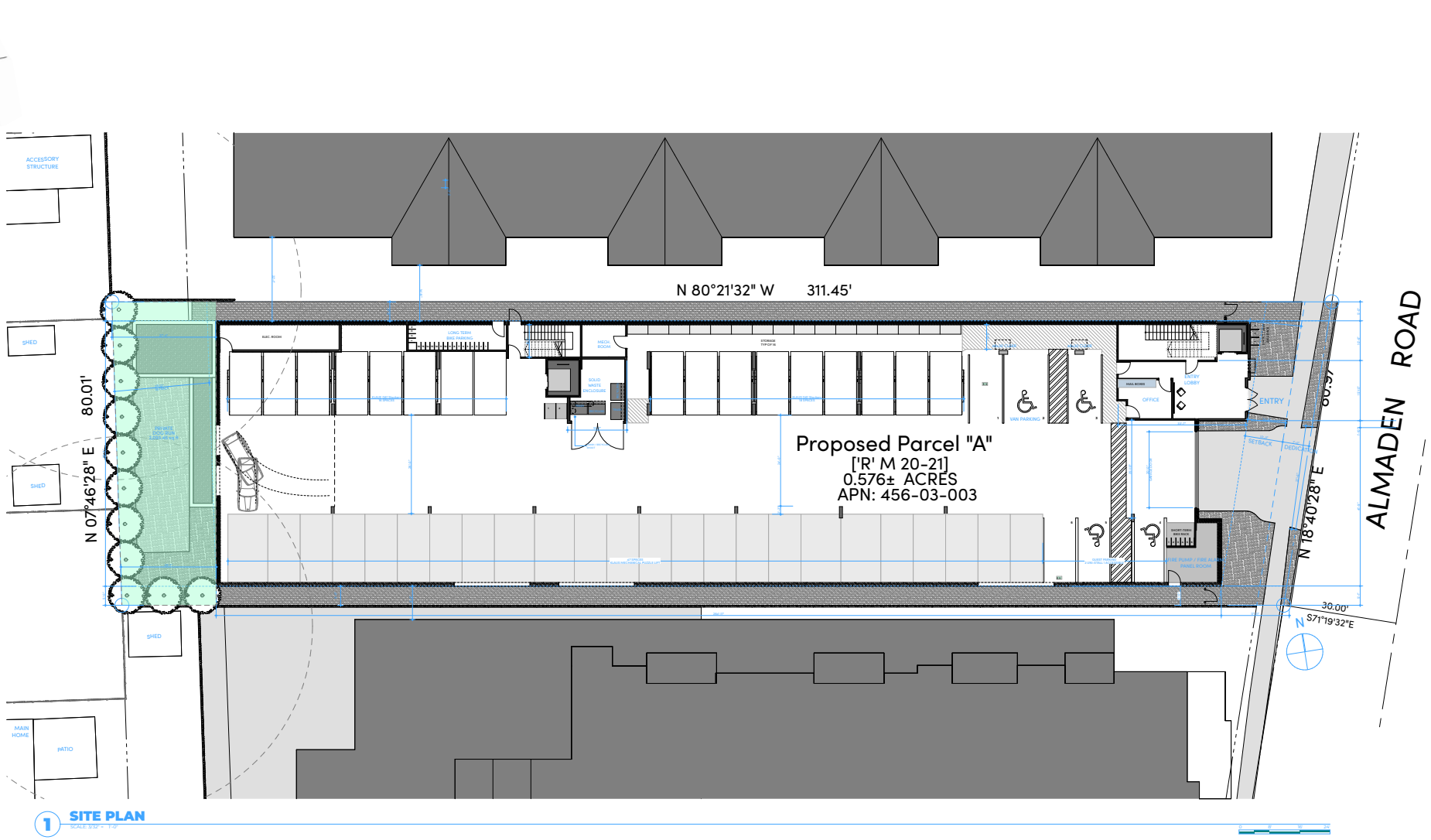
Figure 2

Almaden Villas
Draft EIR

Vicinity Map

Almaden Villas
Draft EIR

Figure
3



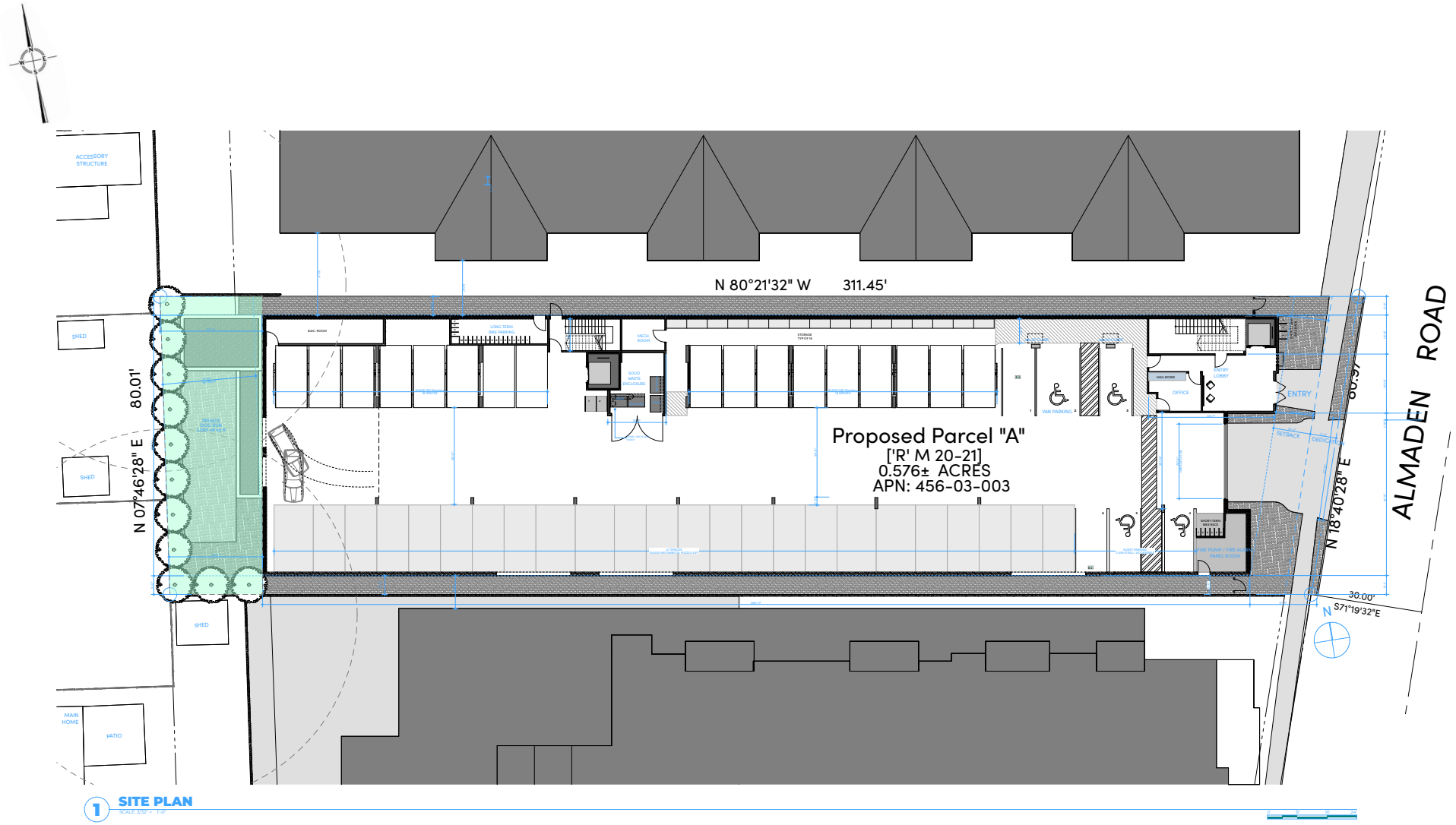
PROJECT ADDRESS:	1747 Almaden Rd San Jose, CA 95125
Planning Application:	SP20-013
APN:	456-03-003
Lot Area:	25,090.56 sq. ft. (0.576 acres)
Construction Type:	Type 3A - Sprinklered
90,323 sf (6-story)	Max ht = 65'-0" Occupied Floor - 76'-8" Top of Elev / Stair
Occupancy:	R-2 Residential, S - Storage (Garage)
Zoning:	R-M – Multifamily Residential
General Plan:	Urban Residential
Density:	30-95 du/acre **Proposed**: 107.64 du/acre
Height:	up to 12 Stories **Proposed** 65'-0" T.O. ROOF
F.A.R.:	1.0 – 4.0 **Proposed**: 3.60 F.A.R. (90,323 SF)

Source: Mayberry Workshop, May 2021

Site Plan

Figure 4

Almaden Villas
Draft EIR



PROJECT ADDRESS:	1747 Almaden Rd San Jose, CA 95125	
Planning Application:	SP20-013	
APN:	456-03-003	
Lot Area:	25,090.56 sq. ft. (0.576 acres)	
Construction Type:	Type 3A - Sprinklered	
90,323 sf (6-story)	Max ht = 65'-0" Occupied Floor - 76'-8" Top of Elev / Stair	
Occupancy:	R-2 Residential, S - Storage (Garage)	
Zoning:	R-M – Multifamily Residential	
General Plan:	Urban Residential	
Density:	30-95 du/acre	**Proposed**: 107.64 du/acre
Height:	up to 12 Stories	**Proposed** 65'-0" T.O. ROOF
F.A.R.:	1.0 – 4.0	**Proposed**: 3.60 F.A.R. (90,323 SF)

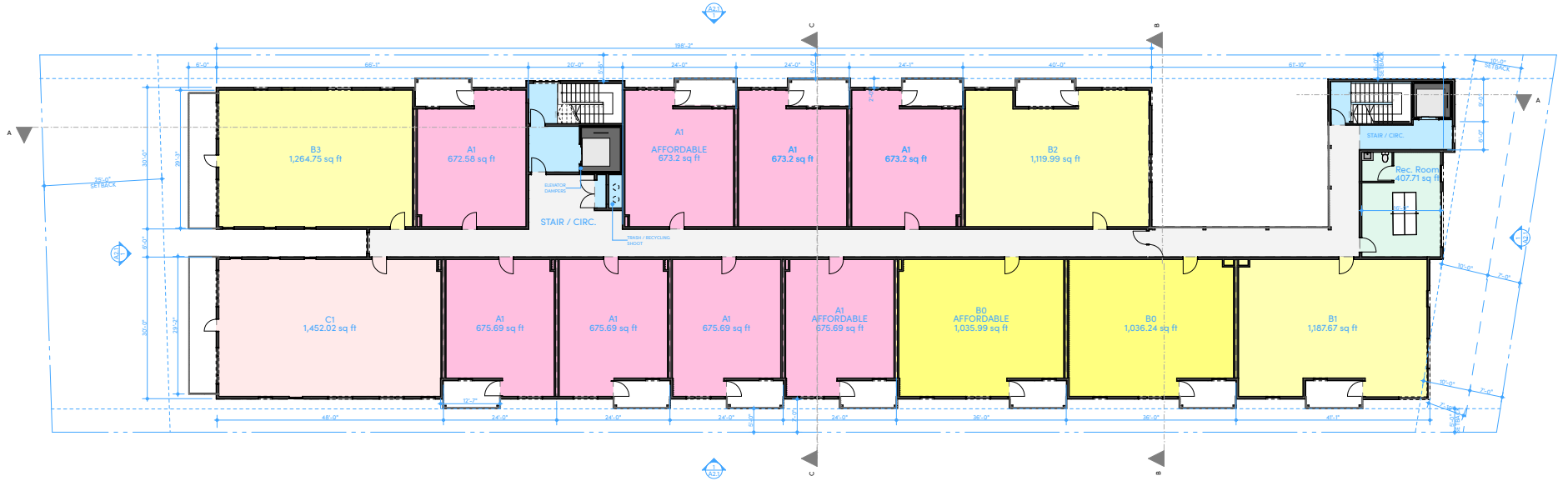
Source: Mayberry Workshop, May 2021

Conceptual Site Plan - Ground Floor

Almaden Villas
Draft EIR

Figure
5a

1 **SECOND FLOOR PLAN**



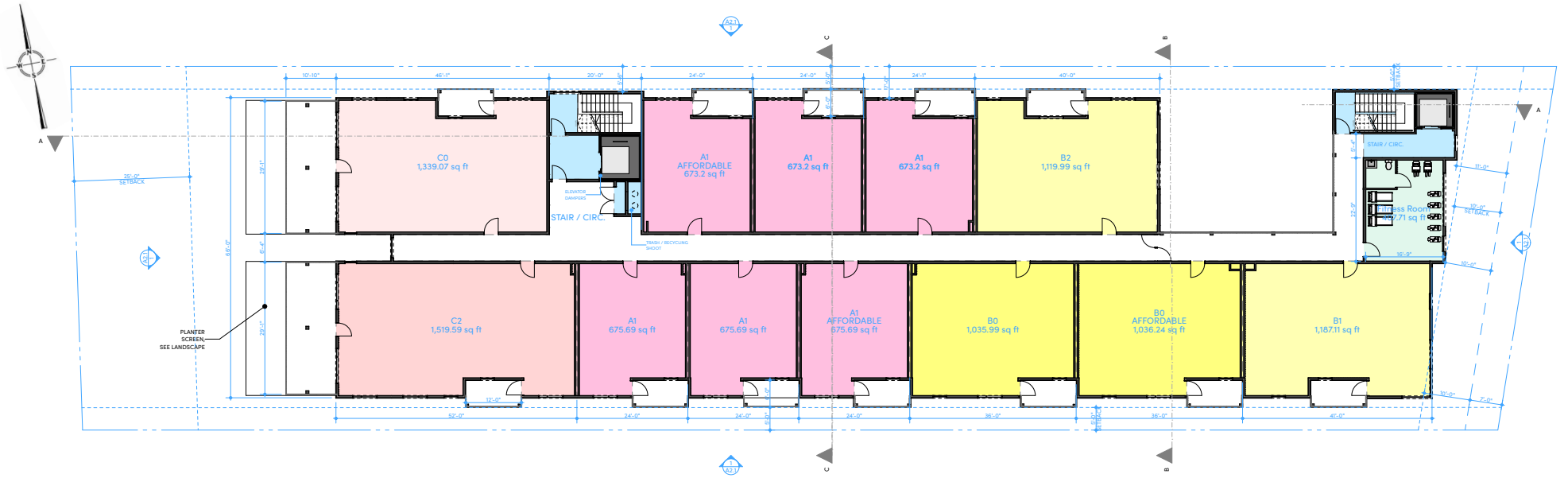
2 **THIRD FLOOR PLAN**

Source: Mayberry Workshop, April 2021

Conceptual Site Plan - Second & Third Floors

Almaden Villas
Draft EIR

Figure
5b



1 **FOURTH FLOOR PLAN**

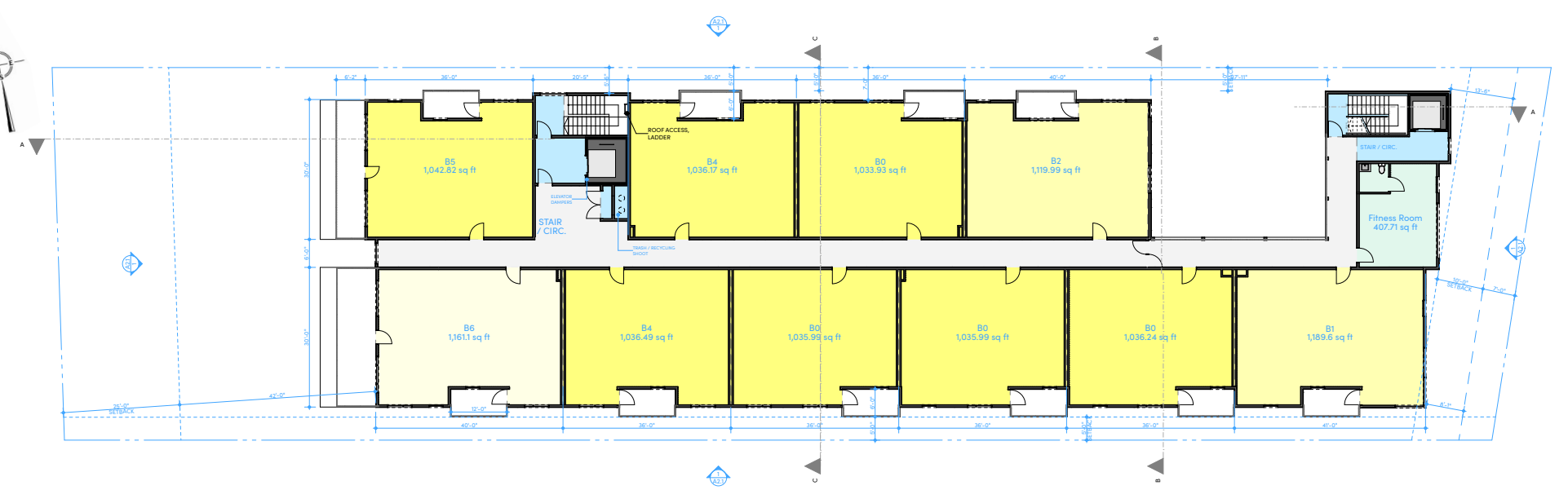
2 **FIFTH FLOOR PLAN**

Source: Mayberry Workshop, April 2021

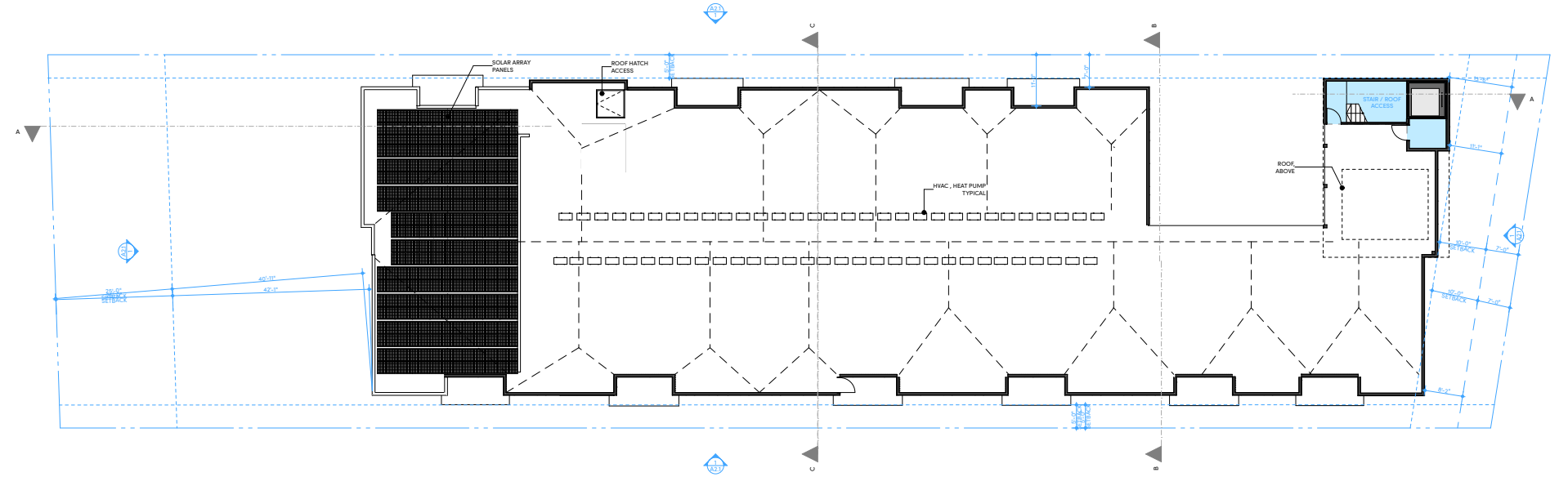
Conceptual Site Plan - Fourth & Fifth Floors

Almaden Villas
Draft EIR

Figure
5c



2 **6. SIXTH FLOOR**



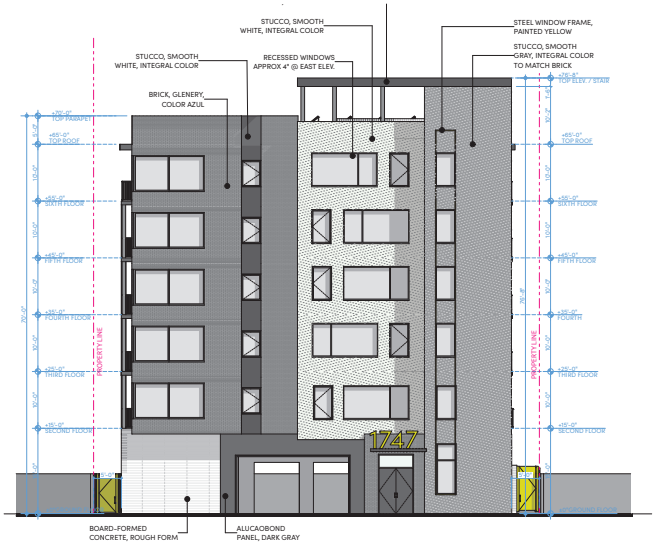
1 **7. ROOF PLAN**

Source: Mayberry Workshop, May 2021

Conceptual Site Plan - Sixth Floor & Roof

Almaden Villas
Draft EIR

Figure
5d



1 **EAST ELEVATION**

SCALE: 3/32" = 1'-0"

2 **SOUTH ELEVATION**

SCALE: 3/32" = 1'-0"

Source: Mayberry Workshop, April 2021

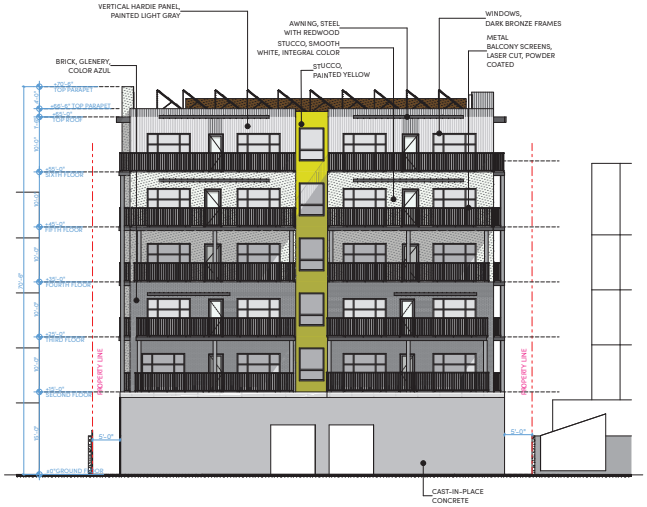
Conceptual Elevations - East & South

Almaden Villas
Draft EIR

Figure
6a

2 NORTH ELEVATION

SCALE: 3/32" = 1'-0"



1 WEST ELEVATION

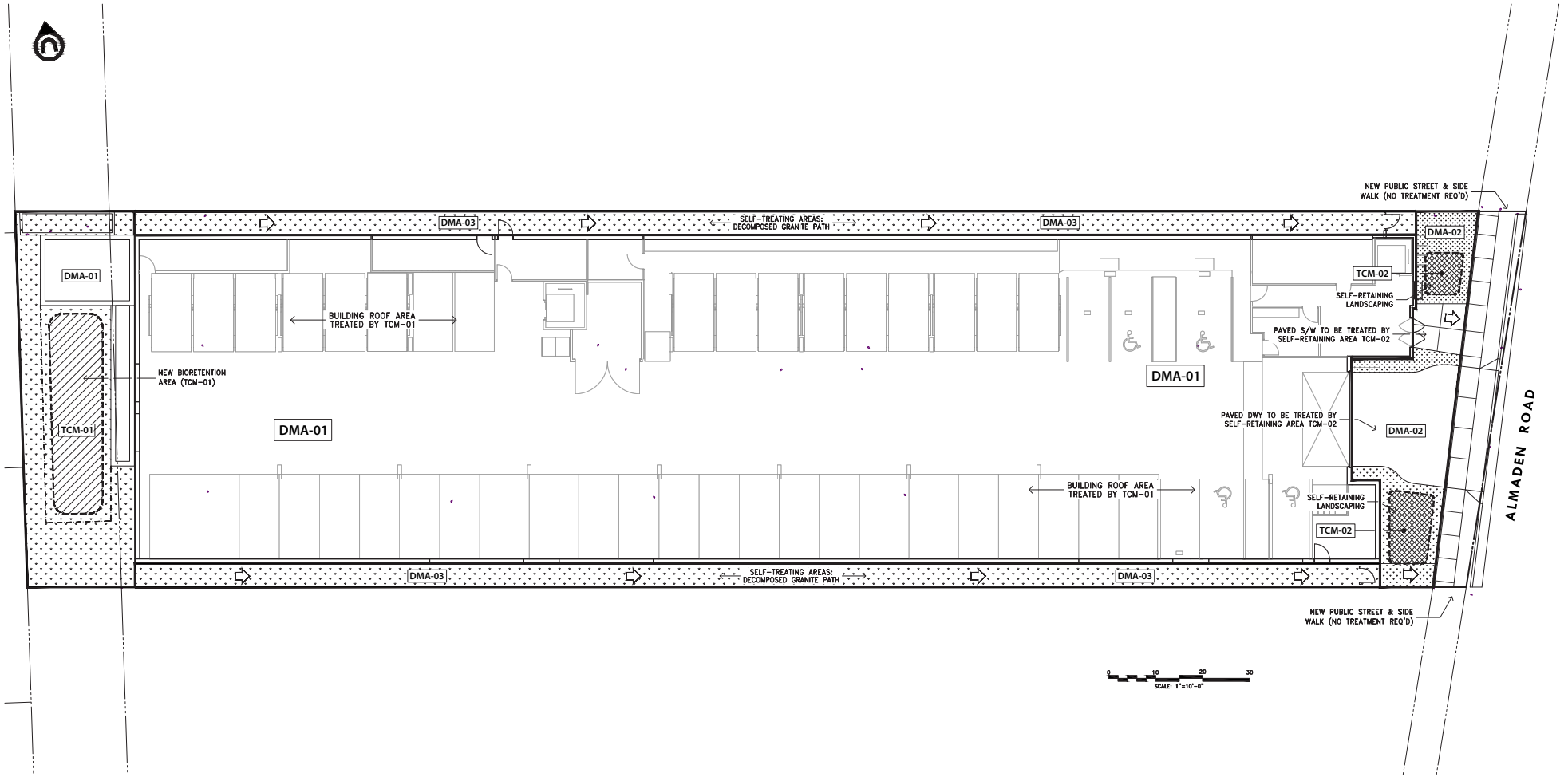
SCALE: 3/32" = 1'-0"

Source: Mayberry Workshop, April 2021

Conceptual Elevations - North & West

Almaden Villas
Draft EIR

Figure
6b



PLAN LEGEND

- DMA-01 — DRAINAGE MANAGEMENT AREA (SEE SIZING CALCS & DETAILS)
- TCM-01 — TREATMENT CONTROL MEASURE (BIOTREATMENT OR SELF-RETAINING)
- ST-01 — SELF-TREATING PERVIOUS AREA (NO IMPERVIOUS RUN-ON)
- SR-01 — SELF-RETAINING PERVIOUS AREA (2:1 MAX IMPERVIOUS RUN-ON)
- GENERAL OVERLAND FLOW DIRECTION

OPERATION & MAINTENANCE:

I. PROPERTY INFORMATION:
- I.A. PROPERTY ADDRESS: 1747 ALMADEN ROAD
- I.B. PROPERTY OWNER: SAM NEMAZIE, 27872 VIA CORITA WAY, LOS ALTOS HILLS, CA 94022

II. RESPONSIBLE PARTY FOR MAINTENANCE:
- II.A. CONTACT: SAM NEMAZIE
- II.B. PHONE NUMBER OF CONTACT: SAM_NEMAZIE@YAHOO.COM
- II.C. EMAIL: SAM_NEMAZIE@YAHOO.COM
- II.D. ADDRESS: 27872 VIA CORITA WAY, LOS ALTOS HILLS, CA 94022

SITE DESIGN MEASURES:

1. PROTECT EXISTING TREES, VEGETATION, AND SOIL.
2. PRESERVE OPEN SPACE AND NATURAL DRAINAGE PATTERNS.
3. REDUCE EXISTING IMPERVIOUS SURFACES.
4. CREATE NEW PERVIOUS AREAS: LANDSCAPING
5. DIRECT RUNOFF FROM ROOFS, SIDEWALKS, PATIOS TO LANDSCAPED AREAS.
6. CLUSTER STRUCTURES / PAVEMENT.
7. PLANT TREES ADJACENT TO & IN PARKING AREAS AND ADJACENT TO OTHER IMPERVIOUS AREAS.
8. PARKING:
   a. ON TOP OF OR UNDER BUILDINGS.
   b. NOT PROVIDED IN EXCESS OF CODE.

SOURCE CONTROL MEASURES:

1. CONNECT THE FOLLOWING FEATURES TO SANITARY SEWER:
   a. COVERED TRASH / RECYCLING ENCLOSURES.
   b. INTERIOR PARKING STRUCTURES.
   c. WASH AREA / RACKS.
   d. COVERED LOADING DOCKS AND MAINTENANCE BAYS.
   e. PUMPED GROUNDWATER.
2. BENEFICIAL LANDSCAPING.
3. USE OF WATER EFFICIENT IRRIGATION SYSTEMS.
4. MAINTENANCE (PAVEMENT SWEEPING, CATCH BASIN CLEANING, GOOD HOUSEKEEPING).
5. STORM DRAIN LABELING.

PROJECT SITE INFORMATION:

1. SOILS TYPE: CL – CH
2. GROUND WATER DEPTH: 20 FT – 40 FT
3. NAME OF RECEIVING BODY: GUADALUPE CREEK
4. FLOOD ZONE: FLOOD ZONE "D"
5. FLOOD ELEVATION (IF APPLICABLE): _____

STANDARD STORMWATER CONTROL NOTES:

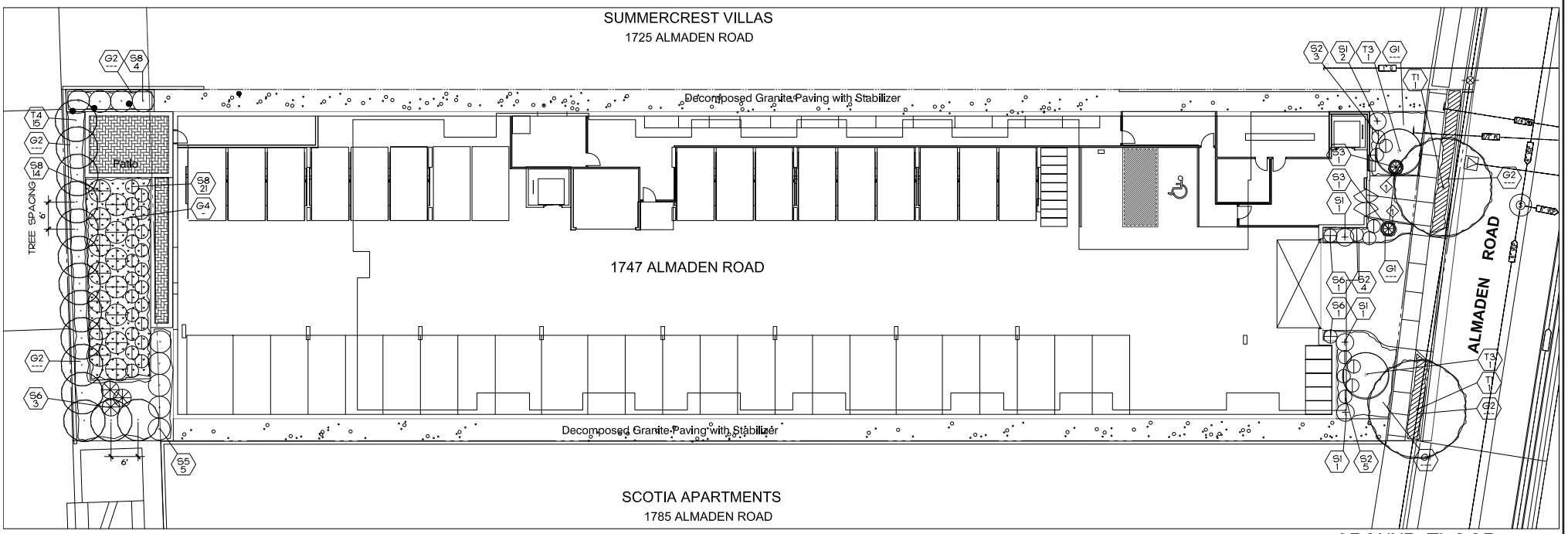
- STANDING WATER SHALL NOT REMAIN IN THE TREATMENT MEASURES FOR MORE THAN FIVE DAYS, TO PREVENT MOSQUITO GENERATION. SHOULD ANY MOSQUITO ISSUES ARISE, CONTACT THE SANTA CLARA VALLEY VECTOR CONTROL DISTRICT (DISTRICT). MOSQUITO LARVICIDES SHALL BE APPLIED ONLY WHEN ABSOLUTELY NECESSARY, AS INDICATED BY THE DISTRICT, AND THEN ONLY BY A LICENSED PROFESSIONAL OR CONTRACTOR. CONTACT INFORMATION FOR THE DISTRICT IS PROVIDED BELOW.
- DO NOT USE PESTICIDES OR OTHER CHEMICAL APPLICATIONS TO TREAT DISEASED PLANTS, CONTROL WEEDS OR REMOVED UNWANTED GROWTH. EMPLOY NON-CHEMICAL CONTROLS (BIOLOGICAL, PHYSICAL AND CULTURAL CONTROLS) TO TREAT A PEST PROBLEM. PRUNE PLANTS PROPERLY AND AT THE APPROPRIATE TIME OF YEAR. PROVIDE ADEQUATE IRRIGATION FOR LANDSCAPE PLANTS. DO NOT OVER WATER.

Source: Nterra, April 2021

Stormwater Management Plan

Figure 7

Almaden Villas
Draft EIR



GROUND FLOOR

PLANT NOTES:

1. THE CONTRACTOR SHALL VERIFY PLANT QUANTITIES FROM THE PLANTING PLAN. QUANTITIES SHOWN IN THE LEGEND ARE FOR CONVENIENCE ONLY.
2. NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY IN THE EVENT OF ANY DISCREPANCIES BETWEEN ACTUAL SITE CONDITIONS AND THE PLANTING PLAN.
3. PLANT GROUNDCOVER IN SHRUB AREAS AS NOTED, USE TRIANGULAR SPACING.
4. SEE DETAIL AND SPECIFICATION SHEETS FOR ADDITIONAL INFORMATION.
5. THERE WILL BE NO MATERIALS OR PLANT MATERIALS SUBSTITUTIONS WITHOUT APPROVAL OF THE OWNER OR THE LANDSCAPE ARCHITECT.
7. IN THE EVENT OF ANY DISCREPANCIES BETWEEN THIS PLAN AND ACTUAL SITE CONDITIONS, THE LANDSCAPE ARCHITECT IS TO BE NOTIFIED IMMEDIATELY.
8. ENTIRE SITE IS TO BE ROUGH GRADED BY THE GRADING CONTRACTOR TO WITHIN 1/10 TH FOOT OF FINISH GRADE. LANDSCAPE CONTRACTOR IS TO FINE GRADE ALL LANDSCAPE AREAS.
9. ALL SITE UTILITIES ARE TO BE PROTECTED DURING CONSTRUCTION. IN THE EVENT OF CONFLICT BETWEEN THE PLANS AND UTILITIES THE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT. ANY DAMAGE TO UTILITIES, STRUCTURES, OR OTHER FEATURES TO REMAIN, AND CAUSED BY THE LANDSCAPE CONTRACTOR SHALL BE REPLACED OR REPAIRED BY THE CONTRACTOR AT NO EXPENSE TO THE OWNER.
10. THE WORK IN THESE DRAWINGS AND SPECIFICATIONS MAY RUN CONCURRENTLY WITH WORK BY OTHERS. THE LANDSCAPE CONTRACTOR SHALL COORDINATE THE WORK WITH OTHER CONTRACTORS.
11. PRIOR TO ANY DIGGING OR TRENCHING, CALL UNDERGROUND SERVICE ALERT -1.800.227.2600
12. A MINIMUM OF 3" DEPTH LAYER OF MULCH (NON-FLOATABLE), IS REQUIRED ON ALL EXPOSED PLANTING SURFACES.

PLANT LIST:

KEY	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	REMARKS	WUCOLS
	TREES					
T1	PISTACHIA CHINENSIS	CHINESE PISTACHE	3	24" BOX	STANDARD	MEDIUM
T2	ARBUTUS UNEDO	STRAWBERRY TREE	1	24" BOX	MULTI-TRUNK	LOW
T3	ARBUTUS M. 'COMPACTA'	DWARF STRAWBERRY TREE	2	24" BOX	MULTI-TRUNK	LOW
T4	PODOCARPUS GRACILIOR	FERN PINE	15	36" BOX	COLUMNAR	MEDIUM
T5	ARBUTUS U. 'OKTOBERFEST'	OKTOBERFEST STRAWBERRY TREE	---	24" BOX	MULTI-TRUNK	LOW
	SHRUBS					
S1	JUNIPERUS S. 'MEDORA'	MEDORA JUNIPER	5	15 GAL		LOW
S2	RHAPHIOLEPIS U. 'MINOR'	DWARF YEDDO HAWTHORN	12	5 GAL		LOW
S3	CORDYLINE A. 'PINK CHAMPAGNE'	PINK AND WHITE CORDYLINE	2	5 GAL		LOW
S4	DIANELLA C. 'CASSA BLUE'	CASSA BLUE DIANELLA	---	5 GAL		LOW
S5	PITTOSPORUM T. 'VARIEGATA'	MOCK ORANGE	8	5 GAL		LOW
S6	CORDYLINE A. 'RED STAR'	RED STAR CORDYLINE	5	5 GAL		LOW
S7	ANIGOZANTHOS 'BUSH GOLD'	YELLOW KANGAROO PAW	---	5 GAL		LOW
S8	CHONDROPETALULM TECTORUM	SMALL CAPE RUSH	18	5 GAL		LOW
S9	JUNCUS PATENS	JUNCUS	21	5 GAL		LOW
	GROUND COVERS					
G1	STACHYS B. 'BIG EARS'	LAMBS EAR	---	1 GAL	18" O.C.	LOW
G2	OSTEOSPERMUM F. 'WHITE'	FREEWAY DAISY	---	1 GAL	18" O.C.	LOW
G3	ALOE 'BLUE ELF'	BLUE ELF ALOE	---	1 GAL	12" O.C.	LOW
G4	MAHONIA REPENS	CREEPING MAHONIA	---	1 GAL	18" O.C.	LOW

PLANT SYMBOLS

(SXX / XX) — INDICATES PLANT KEY / INDICATES PLANT QUANTITY

(1) 'KORNEGAY' POT ; DS 32
COLOR: 'DAVIS' PALOMINO
PHONE: 877-252-6323

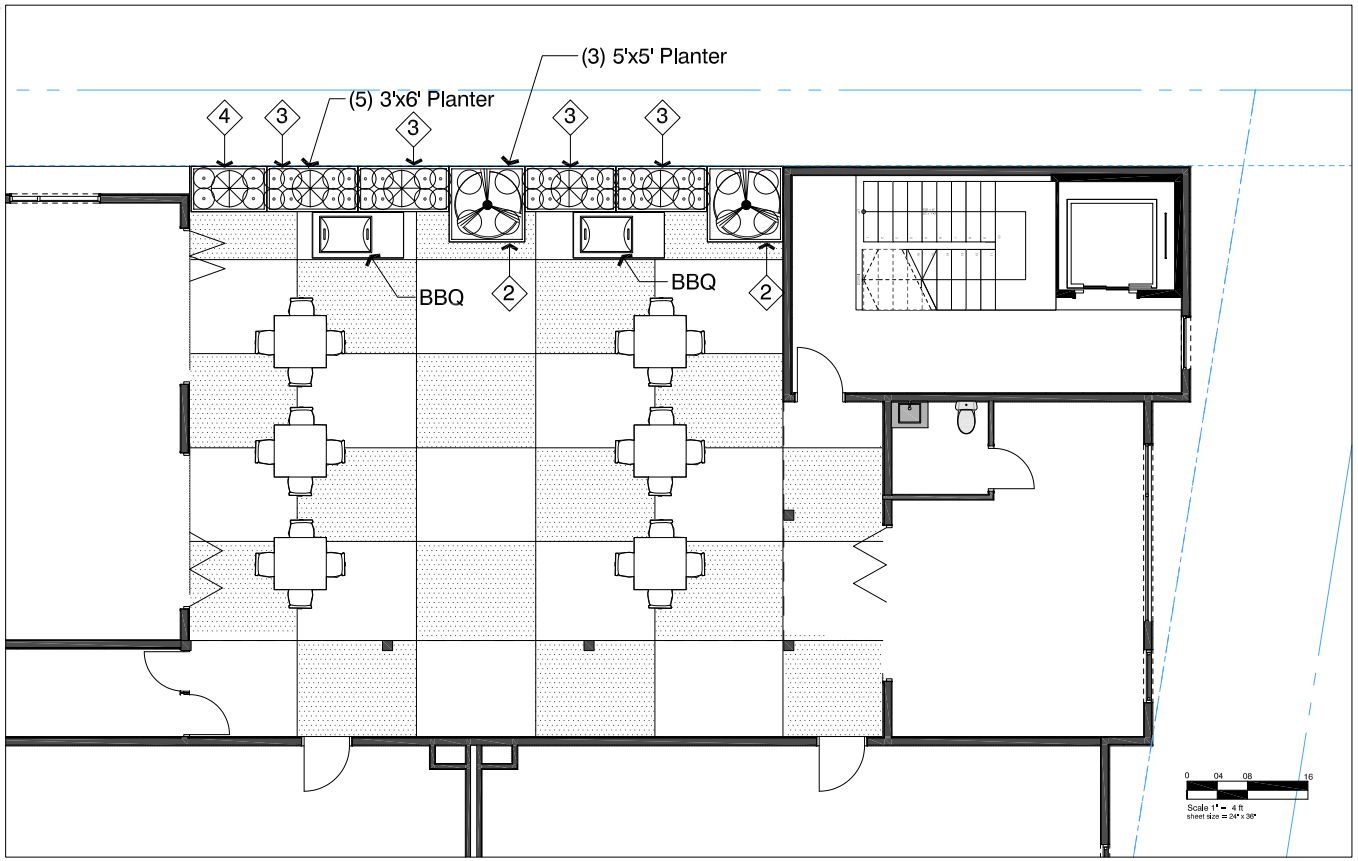
0 05 10 20
Scale 1" = 10 ft
sheet size = 24" x 36"

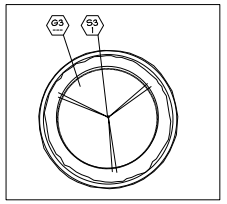
Source: Mayberry Workshop, April 2021

Landscape Plan - Ground Floor

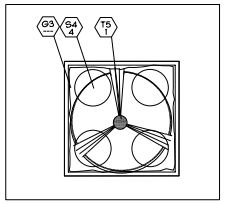
Figure 8a

Almaden Villas
Draft EIR

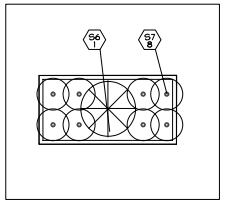




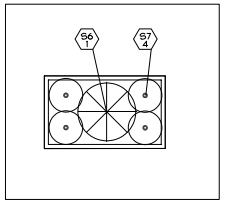
1 3' Round Planter



2 5' x 5' Planter



3 3' x 6' Planter



4 3' x 5' Planter

PLANT SYMBOLS

S/XX — INDICATES PLANT KEY
XX — INDICATES PLANT QUANTITY

1 'KORNEGAY' POT : DS 32
COLOR: 'DAVIS' PALOMINO
PHONE: 877-252-6323

2 'TOURNESOL' PLANTER
WILSHIRE COLLECTION: WCR-6000
FINISH: 'NATURAL SAND'
COLOR: SHARK

3 'TOURNESOL' PLANTER
WILSHIRE COLLECTION: WCR-123642
FINISH: 'NATURAL SAND'
COLOR: SHARK

4 'TOURNESOL' PLANTER
WILSHIRE COLLECTION: WCR-603042
FINISH: 'NATURAL SAND'
COLOR: SHARK

PLANT LIST: 2nd LEVEL ONLY

KEY	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	REMARKS	WUCOLS
	TREES					
T1	PLATANUS A. 'COLUMBIA'	LONDON PLANE TREE	---	24" BOX	STANDARD	MEDIUM
T2	ARBUTUS UNEDO	STRAWBERRY TREE	--	24" BOX	MULTI-TRUNK	LOW
T3	ARBUTUS M. 'COMPACTA'	DWARF STRAWBERRY TREE	---	24" BOX	MULTI-TRUNK	LOW
T4	CUPRESSUS GLAUCA	ITALIAN PENCIL TREE	---	24" BOX	COLUMNAR	LOW
T5	ARBUTUS U. 'OKTOBERFEST'	OKTOBERFEST STRAWBERRY TREE	3	24" BOX	MULTI-TRUNK	LOW
	SHRUBS					
S1	JUNIPERUS S. 'MEDORA'	MEDORA JUNIPER	---	15 GAL		LOW
S2	RHAPHIOLEPIS U. 'MINOR'	DWARF YEDDO HAWTHORN	---	5 GAL		LOW
S3	CORDYLINE A. 'PINK CHAMPAGNE'	PINK AND WHITE CORDYLINE	---	5 GAL		LOW
S4	DIANELLA C. 'CASSA BLUE'	CASSA BLUE DIANELLA	12	5 GAL		LOW
S5	PITTOSPORUM T. 'VARIEGATA'	MOCK ORANGE	---	5 GAL		LOW
S6	CORDYLINE A. 'RED STAR'	RED STAR CORDYLINE	4	5 GAL		LOW
S7	ANIGOZANTHOS 'BUSH GOLD'	YELLOW KANGAROO PAW	16	5 GAL		LOW
S8	CHONDROPETALULM TECTORUM	SMALL CAPE RUSH	---	5 GAL		LOW
	GROUND COVERS					
G1	STACHYS B. 'BIG EARS'	LAMBS EAR	---	1 GAL	18" O.C.	LOW
G2	OSTEOSPERMUM F. 'WHITE'	FREEWAY DAISY	---	1 GAL	18" O.C.	LOW
G3	ALOE 'BLUE ELF'	BLUE ELF ALOE	---	1 GAL	12" O.C.	LOW
G4	MAHONIA REPENS	CREEPING MAHONIA	---	1 GAL	18" O.C.	LOW

PLANT NOTES:

1. THE CONTRACTOR SHALL VERIFY PLANT QUANTITIES FROM THE PLANTING PLAN. QUANTITIES SHOWN IN THE LEGEND ARE FOR CONVENIENCE ONLY.
2. NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY IN THE EVENT OF ANY DISCREPANCIES BETWEEN ACTUAL SITE CONDITIONS AND THE PLANTING PLAN.
3. PLANT GROUNDCOVER IN SHRUB AREAS AS NOTED. USE TRIANGULAR SPACING.
4. SEE DETAIL AND SPECIFICATION SHEETS FOR ADDITIONAL INFORMATION.
5. THERE WILL BE NO MATERIALS OR PLANT MATERIALS SUBSTITUTIONS WITHOUT APPROVAL OF THE OWNER OR THE LANDSCAPE ARCHITECT.
6. ALL SLOPES PLANTED WITH GROUND COVER NOT TO EXCEED A 2:1 SLOPE.
7. PROVIDE POSITIVE DRAINAGE AWAY FROM ALL BUILDINGS (2% MIN.)
8. IN THE EVENT OF ANY DISCREPANCIES BETWEEN THIS PLAN AND ACTUAL SITE CONDITIONS, THE LANDSCAPE ARCHITECT IS TO BE NOTIFIED IMMEDIATELY.
9. ENTIRE SITE IS TO BE ROUGH GRADED BY THE GRADING CONTRACTOR TO WITHIN 3/10TH FOOT OF FINISH GRADE. LANDSCAPE CONTRACTOR IS TO FINE GRADE ALL LANDSCAPE AREAS.
10. ALL SITE UTILITIES ARE TO BE PROTECTED DURING CONSTRUCTION. IN THE EVENT OF CONFLICT BETWEEN THE PLANS AND UTILITIES THE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT. ANY DAMAGE TO UTILITIES, STRUCTURES, OR OTHER FEATURES TO REMAIN, AND CAUSED BY THE LANDSCAPE CONTRACTOR SHALL BE REPLACED OR REPAIRED BY THE CONTRACTOR AT NO EXPENSE TO THE OWNER.
11. THE WORK IN THESE DRAWINGS AND SPECIFICATIONS MAY RUN CONCURRENTLY WITH WORK BY OTHERS. THE LANDSCAPE CONTRACTOR SHALL COORDINATE THE WORK WITH OTHER CONTRACTORS.
12. PRIOR TO ANY DIGGING OR TRENCHING, CALL UNDERGROUND SERVICE ALERT 1-800.227.2600

Source: Mayberry Workshop, April 2021

Landscape Plan - Second Floor

Figure
8b

Almaden Villas
Draft EIR

SECTION 3 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

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

The discussion for each environmental area of analysis includes the following:

Environmental Setting – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing physical environmental conditions at the project site and in the surrounding area, as relevant.

Impact Discussion – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

Project Impacts – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).

Cumulative Impacts – This subsection discusses the project's cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an Environmental Impact Report (EIR) should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

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

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

Table 1 identifies the projects in the project vicinity that are evaluated in the cumulative analysis. These projects are located within an approximately three-mile radius of the project site. These consist of projects in the Willow Glen Planning Area that are pending City approval, that are approved but not constructed, and that are under construction.

For each environmental issue, cumulative impacts may occur within different geographic areas, as identified in the cumulative evaluation for each issue. For example, the project effects on air quality would combine with the effects of projects in the larger air basin, while noise impacts would be limited to the immediate project area.

Table 1
Cumulative Projects List

Project Name	Location	Description
Pending City Approval		
Presentation High School Master Plan	2281 Plummer Ave	106,200 SF commercial
Roem Affordable Housing	961 Meridian Ave	230 multi-family units
Bascom Residential Care	2375 S. Bascom Ave	138 units
Moorpark Supportive Housing	1710 Moorpark Ave	108 units
Approved but not Constructed		
South Bascom Gateway Station	1330 S. Bascom Ave	213,500 SF industrial/office and 590 multi-family units
Under Construction		
Leigh Ave Apartments	1030 Leigh Avenue	64 multi-family units
Holden Assisted Living	1015 S. Bascom Ave	156,022 SF commercial

3.1 Aesthetics

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

State Scenic Highways Program

The State Scenic Highways Program is managed by the California Department of Transportation (Caltrans) and is designed to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The nearest state-designated scenic highway is State Route 9, located approximately seven miles west of the project site in Saratoga. The project site is not located near this designated scenic highway.

Outdoor Lighting Policy (City Council Policy 4-3)

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) and City of San José Interim Lighting Policy Broad Spectrum Lighting for Private Development promote 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.

City's Scenic Corridors Diagram

The City's General Plan defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project property is not located along any scenic corridors per the City's Scenic Corridors Diagram, the nearest scenic gateway is Almaden Expressway, 800 feet away from the project site.[3]

Local

General Plan

The Envision 2040 San José General Plan (General Plan) defines scenic vistas in the City of San José as views of and from the Santa Clara Valley, surrounding hillsides, and urban skyline. Scenic urban corridors, such as segments of major highways that provide gateways into the City, can also be defined as scenic resources by the City. The designation of a scenic route applies to routes affording especially aesthetically pleasing views. The project property is not located along any scenic corridors per the City's Scenic Corridors Diagram.

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating aesthetic impacts from development projects. The following policies are applicable to the proposed project.

[3] https://www.sanjoseca.gov/home/showdocument?id=22565

Envision San José 2040 Relevant Aesthetic Policies	
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy CD-8.1	Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance and applied through the zoning designation for properties throughout the City. Land use designations in the Land Use/ Transportation Diagram provide an indication of the typical number of stories.
Policy CD-10.3	Require that development visible from freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

3.1.1.2 *Existing Conditions*

Project Site

The project site is located on a developed parcel within an urbanized area of San José. The property is currently developed with two vacant buildings. Photographs of the property and a map of the viewpoint locations are presented in Figures 9a and 9b. An aerial of the project area is provided in Figure 3. As shown in the photos, the project site is occupied by two vacant commercial buildings. These buildings have historically been occupied by auto body and repair shops (see Photo 1).

As shown in Figure 9b, a portion of the Santa Cruz Mountains is visible from the site looking south/southwest (see Photo 3). Although other views from the site toward the south are primarily obstructed by existing structures and vegetation, the Diablo Range is partially visible (see Photo 4). Views toward the east/northeast are of the nearby multi-family residential buildings and the SR 87 overpasses (see Photo 4). Views to the west are of residential structures, vegetation, and the Santa Cruz Mountains farther in the distance.

Viewpoints Map

Almaden Villas
Draft EIR

Figure
9a

Photo #1: West facing view of project site from Almaden Road.
Source: Mayberry Workshop - Image Capture January 14th 2021

Photo #2: Southwest facing view of the project site from southbound State Route 87.
Source: Google Earth - Image Capture February 2020

Photo #3: South facing view from project site at Almaden Road.
Source: Mayberry Workshop - Image Capture January 14th 2021

Photo #4: Northeast facing view from project site at Almaden Road.
Source: Google Earth - Image Capture April 2019

Site Photos

Almaden Villas
Draft EIR

Figure
9b

Surrounding Land Uses

The site is located in a commercial and residential area along Almaden Road and surrounded by the following uses:

- North: Multi-Family Residential
- South: Multi-Family Residential, Commercial, Industrial, and Heavy Industrial
- East: Almaden Road, Multi-Family Residential
- West: Single-Family Residential

3.1.2 Impacts and Mitigation

3.1.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to aesthetics would be considered significant if the project would:

a) Have a substantial effect on a scenic vista;

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

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

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

3.1.2.2 *Project Impacts*

a) **Would the project have a substantial effect on a scenic vista?**

Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, the Silver Creek Hills, the Santa Teresa Hills, and foothills of the Santa Cruz Mountains are scenic features in the San José area. The project site is located in an urbanized location in central San José. The existing surrounding uses consist primarily of residential uses. The project site and surrounding areas are relatively flat and the visibility of prominent viewpoints, other than buildings, are limited. The development of the proposed six-story building would not significantly impact scenic vistas from the site since no scenic vistas are readily observable in the project vicinity due to existing topography and buildings that generally obstruct views. Some views of scenic vistas towards the Santa Cruz Mountains and Diablo Range from adjacent residential buildings to the north and south, that are four to five stories in height respectively, may be partially obstructed by the proposed six-story building. However, these views are not considered pristine due to the presence of existing development. **Less Than Significant Impact**.

b) **Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?**

The project site is not located within any City or state-designated scenic routes. However, the project is visible from SR 87 (approximately 320 feet from the project site) and is located approximately 800 feet from the Almaden Scenic Corridor (i.e., Almaden Expressway). Given the distance and that the project site is bordered on the north and south by similar, multi-story apartment buildings, and is not expected to alter views from a scenic highway or corridor. Additionally, the project would not damage scenic resources, such as rock outcroppings and historic buildings since none are located on this infill property. The project site contains a few trees but is otherwise void of vegetation or other scenic attributes. The four trees to be removed by the project would be replaced in accordance with the City's Tree Removal Policy. **Less Than Significant Impact**.

c) **Would the project, 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 project site is located on a developed parcel within an urbanized area. The project would alter the existing visual character of the site and its immediate surroundings by introducing a new approximately 90,323 square-foot, six-story building onto a site that is currently developed with two vacant, one-story commercial buildings. Elevations for the project are presented in Figure 6. The general architectural design of the proposed building is modern. The maximum building height is approximately 78 feet to the top of elevator and stairwell. Landscaping is proposed on the site as shown in Figures 8a and 8b and is limited to the first-floor garden areas and second-story courtyard. Illustrative perspectives of the proposed project are presented in Figure 10. Public views of the site are available from Almaden Road and fleeting views from vehicles traveling on SR 87 and the Almaden Scenic Corridor.

The proposed building is substantially taller than the existing one and two-story homes to the west along Guadalupe Avenue. The proposed six-story building is also taller than the five-story apartment building to the south and the four-story apartment building to the north of the project site. A visual simulation of the project from Guadalupe Avenue is presented in Figure 11. The project would be notably visible from public viewpoints along Guadalupe Avenue; however, the proposed building would be similar to the existing building to the south and consistent with the land use designation of *Urban Residential* for the site. In addition, the project would be required to conform to the applicable City's Residential Design Guidelines and undergo design review during the development review process to ensure the scale and mass are compatible with surrounding development and other publicly accessible vantage points.

Shadow simulations were conducted for the project as presented in Figure 12. The proposed residential building would have a maximum height of approximately 78 feet (from grade to top of elevator and stairwell). The building steps down to two-stories at the rear of the property that abuts single-family residential uses to the west. The proposed building would increase the amount of shade at adjacent residential properties to the north and northwest during the fall and winter months when shadows are longest. However, as shown in Figure 12, the project would not substantially increase the amount of shade during the rest of the year. The City of

San José does not have any policies for determining the significance of a shade and shadow impact outside of downtown.

The project would be required to conform to the applicable City's Residential Design Guidelines and undergo design review during the development review process to ensure the scale and mass are compatible with surrounding development and other publicly accessible vantage points (e.g., sidewalks, public streets).

The project is also consistent with General Plan policies relating to scenic quality focused on creating a well-designed development, including policies CD-1.1, CD-1.23, CD-4.9, and CD-8.1 (see policy table above), which call for appropriate building design, tree planting, and building height limitations.

Given the location of this infill project within a developed area along Almaden Road and its consistency with the site's zoning and other regulations related to scenic quality, the project would not degrade the existing visual character or quality of the site and its surroundings within this urbanized area. **Less Than Significant Impact**.

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

The project does not propose any major sources of lighting or glare. All outdoor lighting would conform to the Council Policy 4-3 Outdoor Lighting on Private Development and be shielded to direct light downwards to ensure that lighting does not spill over onto nearby residential properties. Consistent with Municipal Code Section 20.40.540, all lighting facilities adjacent to residential properties are required to be arranged and shielded so that light is reflected away from nearby residential uses. In addition, the project does not propose to introduce materials into the design that would create substantial glare.

Based on the discussion above, the project would have a less than significant impact related to light and glare. **Less Than Significant Impact**.

Conclusion: All project impacts on aesthetics would be less than significant.

Source: Mayberry Workshop, April 2021

Perspectives

Figure 10

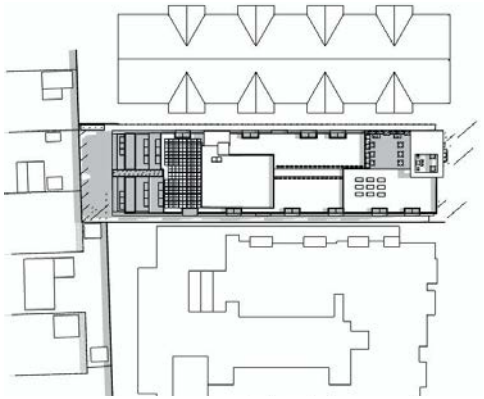
Almaden Villas
Draft EIR

Source: Mayberry Workshop, April 2021

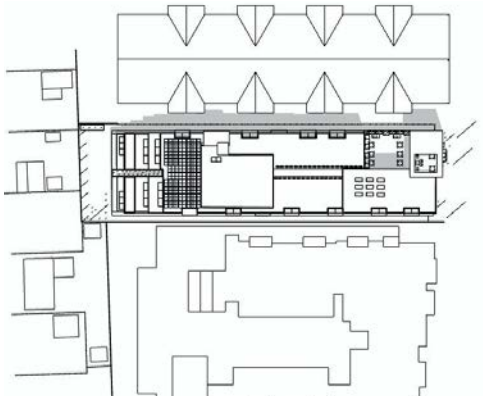
Visual Photo Simulation

Almaden Villas
Draft EIR

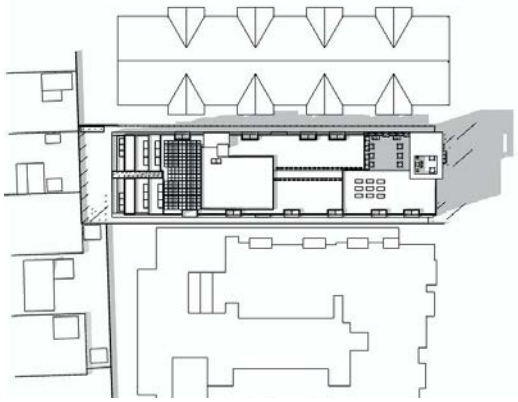
Figure
11



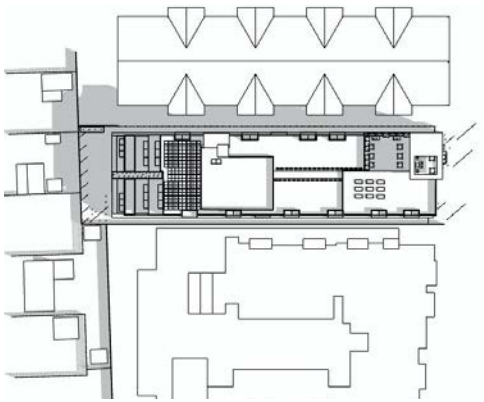
1 JUNE 21- 9AM SHADOW
SCALE: 1:100



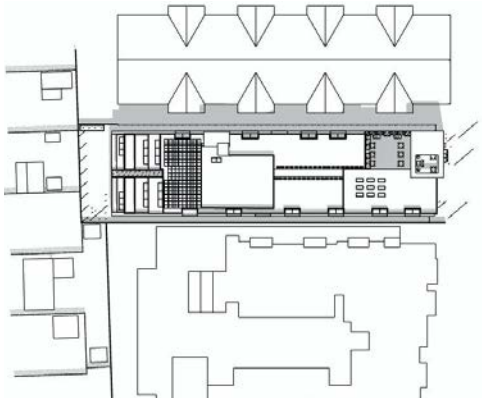
2 JUNE 21- 12PM SHADOW
SCALE: 1:100



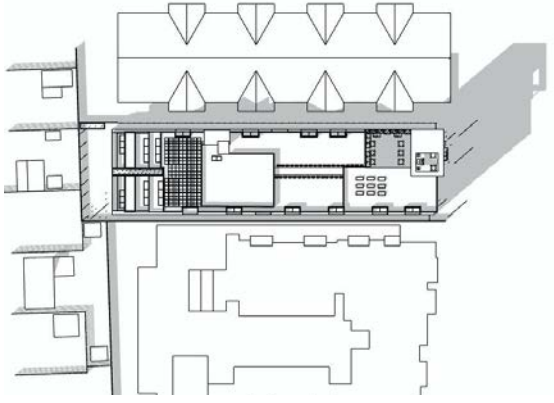
3 JUNE 21- 3PM SHADOW
SCALE: 1:100



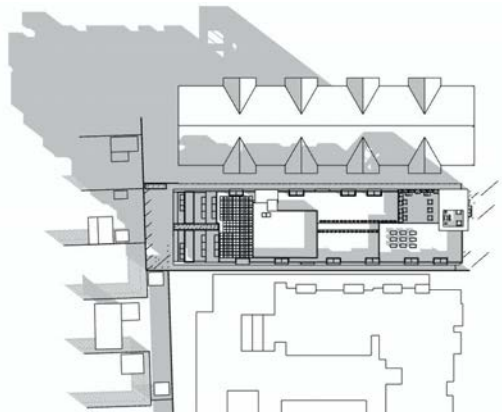
4 SEPTEMBER 21- 9AM SHADOW
SCALE: 1:100



5 SEPTEMBER 21- 12PM SHADOW
SCALE: 1:100

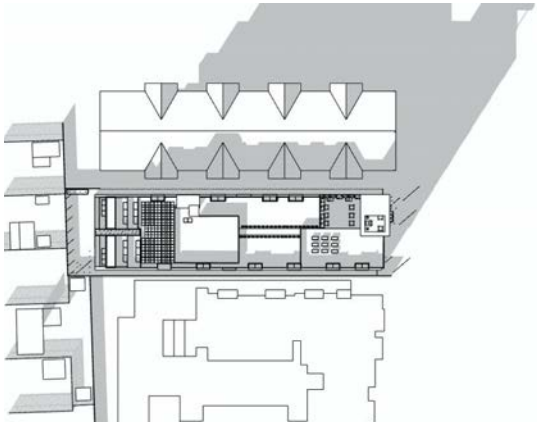


6 SEPTEMBER 21- 3PM SHADOW
SCALE: 1:100



7 DECEMBER 21- 9AM SHADOW
SCALE: 1:100

8 DECEMBER 21- 12PM SHADOW
SCALE: 1:100



9 DECEMBER 21- 3PM SHADOW
SCALE: 1:100

Source: Mayberry Workshop, November 2020

Shadow Simulations

Almaden Villas
Draft EIR

Figure
12

3.2 Agricultural and Forestry Resources

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

State

California Land Conservation Act

The Williamson Act, officially designated as the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners, for the purpose of restricting specific parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments that are based on farming and open space as opposed to full market value. Regulations and rules regarding implementation of Williamson Act contracts are established by local participating cities and counties, as guided by the Williamson Act.

Land Evaluation and Site Assessment

The California Agricultural Land Evaluation and Site Assessment (LESA) was developed by the California Department of Conservation to provide a standardized point-based approach for the rating of relative importance of agricultural land. The LESA model ensures that an optional methodology is available for lead agencies to determine if a project will result in potentially significant effects on the environment as a result of agricultural land conversion. The LESA model is based on specific measurable features, including project size, soil quality, surrounding agricultural and/or protected resource lands, and water resource availability, which are weighted, rated and combined to provide a numeric score. The score serves as the basis for making a determination of potential significance for a project.

Farmland Mapping and Monitoring Program

The California Department of Conservation prepares and maintains farmland map data for Counties throughout the state, including for Santa Clara County, through the Farmland Mapping and Monitoring Program (FMMP). The FMMP produces statistical data and maps for the purpose of analyzing potential impacts on agricultural resources. The FMMP is designed to regulate the conversion of agricultural land to permanent non-agricultural uses. The FMMP contains a rating system based on soil quality and irrigation status, with the best quality land being designated as "Prime Farmland". Maps are updated every two years using computer mapping, aerial photography, public review, and field reconnaissance. The FMMP for Santa Clara County has data from 1984 to the present day, including historical land use conversion, PDF maps, and GIS data.

Local

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating agricultural impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Agricultural Resources Policies	
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.

3.2.1.2 *Existing Conditions*

CEQA requires the evaluation of agricultural and forest/timber resources where they are present. This developed infill project site does not contain any agricultural and forest/timber resources.

In California, agricultural land is given consideration under CEQA. According to Public Resources Code §21060.1, "agricultural land" is identified as prime farmland, farmland of statewide importance, or unique farmland, as defined by the U.S. Department of Agriculture land inventory and monitoring criteria, as modified for California. CEQA also requires consideration of impacts on lands that are under Williamson Act contracts. The project area is identified as "Urban and Built-Up Land" on the 2016 Santa Clara County Important Farmland Map (California Department of Conservation, 2018).

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).

3.2.2 Impact and Mitigation

3.2.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to agricultural and forestry resources would be considered significant if the project would:

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; or

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

3.2.2.2 *Project Impacts*

a) **Would the project 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?**

The project site is an infill property and designated as Urban and Built-Up Land on the Important Farmlands Map for Santa Clara County and does not contain any prime farmland, unique farmland, or farmland of statewide importance. The project would not affect agricultural land. **No Impact**.

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

The project is proposed on a developed infill property, is not zoned for agricultural use, and does not contain lands under Williamson Act contract; therefore, no conflicts with agricultural uses would occur. **No Impact**.

c) **Would the project 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))?**

The project would 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**.

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

See c) above. No other changes to the environment would occur from the project that would result in the loss of forest land or conversion of forest land to non-forest uses. **No Impact**.

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

As per the discussion above, the project would not involve changes in the existing environment which, due to their location or nature, could result in conversion of farmland or forest land, since none are present on this infill property. **No Impact**.

Conclusion: There would be no project-level impacts on agricultural and forestry resources.

3.3 Air Quality

An air quality assessment was prepared for the project by Illingworth & Rodkin, Inc. (April 2020, Revised January 2021). This report is contained in Appendix B.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Framework*

Federal

Federal Clean Air Act and United States Environmental Protection Agency

At the federal level, the EPA has been charged with implementing national air quality programs. EPA's air quality mandates are drawn primarily from the Federal Clean Air Act (FCAA), which was enacted in 1963. The FCAA was amended in 1970, 1977, and 1990.

The FCAA required EPA to establish primary and secondary NAAQS and required each state to prepare an air quality control plan referred to as a State Implementation Plan (SIP). Federal standards include both primary and secondary standards. Primary standards set limits to protect public health, including the health of sensitive populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings.[4] The Federal Clean Air Act Amendments of 1990 (FCAAA) added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air pollution. The SIP is periodically modified to reflect the latest emissions inventories, planning documents, and rules and regulations of the air basins as reported by their jurisdictional agencies. EPA has responsibility to review all state SIPs to determine conformity with the mandates of the FCAAA and determine if implementation will achieve air quality goals. If the EPA determines a SIP to be inadequate, a Federal Implementation Plan (FIP) may be prepared for the nonattainment area which imposes additional control measures. Failure to submit an approvable SIP or to implement the Plan within the mandated timeframe may result in the application of sanctions on transportation funding and stationary air pollution sources in the air basin.

The 1970 FCAA authorized the establishment of national health-based air quality standards and also set deadlines for their attainment. The FCAA Amendments of 1990 changed deadlines for attaining NAAQS as well as the remedial actions required of areas of the nation that exceed the standards. Under the FCAA, state and local agencies in areas that exceed the NAAQS are required to develop SIPs to show how they will achieve the NAAQS by specific dates. The FCAA requires that projects receiving federal funds demonstrate conformity to the approved SIP and local air quality attainment Plan for the region. Conformity with the SIP requirements would satisfy the FCAA requirements.

State

California Clean Air Act

In 1988, the California Clean Air Act (CCAA) required that all air districts in the state endeavor to achieve and maintain CAAQS for CO, O_3, SO_2, and NO_2 by the earliest practical date. The CCAA

[4] See: U.S. Environmental Protection Agency, Web: https://www.epa.gov/criteria-air-pollutants/naaqs-table, Accessed 13 August 2020

provides districts with authority to regulate indirect sources and mandates that air quality districts focus particular attention on reducing emissions from transportation and area-wide emission sources. Each nonattainment district is required to adopt a plan to achieve a 5 percent annual reduction, averaged over consecutive 3-year periods, in district-wide emissions of each nonattainment pollutant or its precursors. A Clean Air Plan shows how a district would reduce emissions to achieve air quality standards. Generally, the state standards for these pollutants are more stringent than the national standards.

Regional and Local

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) seeks to attain and maintain air quality conditions in the San Francisco Bay Area Air Basin (SFBAAB) through a comprehensive program of planning, regulation, enforcement, technical innovation, and education. The clean air strategy includes the preparation of plans for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations, and issuance of permits for stationary sources. The BAAQMD also inspects stationary sources and responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements programs and regulations required by law.

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD's May 2017 CEQA Air Quality Guidelines update the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court's 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors, which are summarized in Table 5 in the impact discussion below.

2017 Bay Area Clean Air Plan

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

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

BAAQMD CARE Program

The Community Air Risk Evaluation (CARE) program was initiated in 2004 to evaluate and reduce health risks associated with exposures to outdoor TACs in the Bay Area. The program examines TAC emissions from point sources, area sources and on-road and off-road mobile sources with an emphasis on diesel exhaust, which is a major contributor to airborne health risk in California. The CARE program is an on-going program that encourages community involvement and input. The technical analysis portion of the CARE program is being implemented in three phases that includes an assessment of the sources of TAC emissions, modeling and measurement programs to estimate concentrations of TAC, and an assessment of exposures and health risks. Throughout the program, information derived from the technical analyses will be used to focus emission reduction measures in areas with high TAC exposures and high density of sensitive populations. Risk reduction activities associated with the CARE program are focused on the most at-risk communities in the Bay Area. The BAAQMD has identified six communities as impacted: Concord, Richmond/San Pablo, Western Alameda County, San José, Redwood City/East Palo Alto, and Eastern San Francisco.

Planning Healthy Places

BAAQMD developed a guidebook that provides air quality and public health information intended to assist local governments in addressing potential air quality issues related to exposure of sensitive receptors to exposure of emissions from local sources of air pollutants. The guidance provides tools and recommended best practices that can be implemented to reduce exposures. The information is provided as recommendations to develop policies and implementing measures in city or county General Plans, neighborhood or specific plans, land use development ordinances, or into projects.

BAAQMD California Environmental Quality Act Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines[5] were prepared to assist in the evaluation of air quality impacts of projects and plans proposed within the Bay Area. The guidelines provide recommended procedures for evaluating potential air impacts during the environmental review process consistent with CEQA requirements including thresholds of significance, mitigation measures, and background air quality information. They also include assessment methodologies for air toxics, odors, and greenhouse gas emissions. In June 2010, the BAAQMD's Board of Directors adopted CEQA thresholds of significance and an update of their CEQA Guidelines. In May 2011, the updated BAAQMD CEQA Air Quality Guidelines were amended to include a risk and hazards threshold for new receptors and modify procedures for assessing impacts related to risk and hazard impacts. A recent update to the Guidelines was published in May 2017. *Attachment 1* includes detailed community risk modeling methodology.

BAAQMD Rules and Regulations

Projects with combustion equipment or other processes that directly emit air pollutants, precursor air pollutants or toxic air contaminants are subject to BAAQMD permitting rules and regulations that typically require obtaining permits to operate. Common sources requiring permits that may be constructed in the plan area include diesel engines used to power emergency generators and gasoline fueling dispensaries.

[5] Bay Area Air Quality Management District, 2017. *CEQA Air Quality Guidelines*. May.

Odors

Odor impacts are subjective in nature and are generally regarded as an annoyance rather than a health hazard. The ability to detect and react to odors varies considerably among people. A strong or unfamiliar odor is more easily detected and are more likely to cause complaints. BAAQMD responds to odor complaints from the public and considers a source to have a substantial number of odor complaints if the complaint history includes five or more confirmed complaints per year averaged over a 3-year period. Facilities that are regulated by CalRecycle (e.g. landfill, composting, etc.) are required to have Odor Impact Minimization Plans in place. Some odor source examples from BAAQMD include landfills, composting facilities, wastewater treatment plants, asphalt batch plants, chemical manufacturing, food processing facilities, and coffee roasters. A review of the project area could not find any of these land uses, but indicated auto body shops were nearby; however, odors from these are controlled by BAAQMD and should not produce significant odors.

Toxic Air Contaminants

A group of toxic substances found in ambient air referred to as Hazardous Air Pollutants (HAPs) under the CAA and Toxic Air Contaminants (TACs) under the CCAA. These contaminants tend to be localized and are found in relatively low concentrations in ambient air. However, they can result in adverse chronic health effects if exposure to low concentrations occurs for long periods. They are regulated at the local, state, and federal level.

HAPs are the air contaminants identified by U.S. EPA as known or suspected to cause cancer, serious illness, birth defects, or death. Many of these contaminants originate from human activities, such as fuel combustion and solvent use. Mobile source air toxics (MSATs) are a subset of the 188 HAPS. Of the 21 HAPs identified by U.S. EPA as MSATs, a priority list of six priority HAPs were identified that include: diesel exhaust, benzene, formaldehyde, acetaldehyde, acrolein, and 1,3-butadiene. The Federal Highway Administration[6] reports that while vehicle miles traveled (VMT) in the United States is expected to increase by 64 percent over the period 2000 to 2020, emissions of MSATs are anticipated to decrease substantially as a result of efforts to control mobile source emissions (by 57% to 67% depending on the contaminant).

California developed a program under the Toxic Air Contaminant Identification and Control Act (Assembly Bill [AB] 1807, Tanner 1983), also known as the Tanner Toxics Act, to identify, characterize and control TACs. Subsequently, AB 2728 (Tanner, 1992) incorporated all 188 HAPs into the AB 1807 process. TACs include all HAPs plus other containments identified by CARB. These are a broad class of compounds known to cause morbidity or mortality (cancer risk). TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

[6] Federal Highway Administration, 2016. Updated Interim Guidance on Mobile Source Air Toxic Analysis in NEPA Documents. https://www.fhwa.dot.gov/environMent/air_quality/air_toxics/policy_and_guidance/msat/

The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly), described by CARB (2016e),[7] was enacted in 1987, and requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

Particulate matter from diesel exhaust is the predominant TAC in urban air and is estimated to represent about 70 percent of the cancer risk from TACs, based on the statewide average reported by CARB (2012). According to CARB, diesel exhaust is a complex mixture of gases, vapors and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by CARB, and are listed as carcinogens either under State Proposition 65 or under the Federal Hazardous Air Pollutants programs.

CARB reports that recent air pollution studies have shown an association that diesel exhaust and other cancer-causing toxic air contaminants emitted from vehicles are responsible for much of the overall cancer risk from TACs in California.[8] Particulate matter emitted from diesel-fueled engines (diesel particulate matter [DPM]) was found to comprise much of that risk. In 1998, CARB formally identified DPM as a TAC.[9] Diesel particulate matter is of particular concern since it can be distributed over large regions, thus leading to widespread public exposure. The particles emitted by diesel engines are coated with chemicals, many of which have been identified by U.S. EPA as HAPs, and by CARB as TACs. The vast majority of diesel exhaust particles (over 90 percent) consist of $PM_{2.5}$, which are the particles that can be inhaled deep into the lung (CARB 2012). Like other particles of this size, a portion will eventually become trapped within the lung possibly leading to adverse health effects. While the gaseous portion of diesel exhaust also contains TACs, CARB's 1998 action was specific to DPM, which accounts for much of the cancer-causing potential from diesel exhaust. California has adopted a comprehensive diesel risk reduction program to reduce DPM emissions 85 percent by 2020[10]. The EPA and CARB adopted low sulfur diesel fuel standards in 2006 that reduce diesel particulate matter substantially.

Smoke from residential wood combustion can be a source of TACs. Wood smoke is typically emitted during winter when dispersion conditions are poor. Localized high TAC concentrations can result when cold stagnant air traps smoke near the ground and, with no wind the pollution can persist for many hours, especially in sheltered valleys during winter. Wood smoke also contains a significant amount of PM_{10} and $PM_{2.5}$. Wood smoke is an irritant and is implicated in worsening asthma and other chronic lung problems.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy-duty diesel trucks that represent the bulk of DPM emissions from California highways. These regulations include the solid waste collection vehicle (SWCV) rule, in-use public and utility fleets, and the heavy-duty diesel truck and bus regulations. In 2008, CARB approved a new regulation to reduce emissions of

[7] California Air Resources Board (CARB). 2016. AB 2588 Air Toxics "Hot Spots" Program. https://www.arb.ca.gov/ab2588/ab2588.htm
[8] California Air Resources Board (CARB) 2012. Overview: Diesel Exhaust and Health. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health Accessed May 20, 2018.
[9] California Air Resources Board (CARB). 2000. Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. October. https://www.arb.ca.gov/diesel/documents/rrpFinal.pdf
[10] *Ibid*

DPM and nitrogen oxides from existing on-road heavy-duty diesel fueled vehicles.[11] The regulation requires affected vehicles to meet specific performance requirements between 2014 and 2023, with all affected diesel vehicles required to have 2010 model-year engines or equivalent by 2023. These requirements are phased in over the compliance period and depend on the model year of the vehicle. In 2011, CARB amended the Airborne Toxic Control Measures for Stationary Diesel Engines Regulation to reduce DPM and criteria pollutant emissions and implemented regulations and monitoring for generator diesel engines greater than 50 horsepower.[12] In 2014, CARB adopted the nation's first regulation aimed at cleaning up off-road construction equipment to reduce emissions of DPM and ensure fleets gradually turnover the oldest and dirtiest equipment to newer, cleaner models.[13]

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Air Quality Policies	
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.4	Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-13.1	Include dust, 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.

[11] Available online: https://ww2.arb.ca.gov/our-work/topics/construction-earthmoving-equipment. Accessed: September 3, 2020.
[12] Available online: https://ww2.arb.ca.gov/our-work/programs/stationary-diesel-atcm. Accessed: September 3, 2020.
[13] Available online: http://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm. Accessed: November 21, 2014.

3.3.1.2 *Existing Conditions*

Air Pollutants and Contaminants

Air pollution is governed by multiple federal and state standards to regulate and mitigate health impacts. At the federal level, there are six criteria pollutants for which National Ambient Air Quality Standards (NAAQS) have been established: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone (O_3), suspended particulate matter (PM: $PM_{2.5}$ and PM_{10}), and sulfur dioxide (SO_2). California sets standards, similar to the NAAQS as California Ambient Air Quality Standards (CAAQS). Health effects of the primary criteria pollutants (i.e., the NAAQS) and their potential sources are described below and summarized in Table 2. Note that California includes pollutants or contaminants that are specific to certain industries and not associated with this project. These include hydrogen sulfide and vinyl chloride.

Ozone

Ozone is a secondary air pollutant produced in the atmosphere through a complex series of photochemical reactions involving reactive organic gases (ROG) and oxides of nitrogen (NO_X). The main sources of ROG and NO_X, often referred to as ozone precursors, are combustion processes (including combustion in motor vehicle engines) and the evaporation of solvents, paints, and fuels. In the Bay Area, automobiles are the single largest source of ozone precursors. Ozone is referred to as a regional air pollutant because its precursors are transported and diffused by wind concurrently with ozone production through the photochemical reaction process. Ozone causes eye irritation, airway constriction, shortness of breath, and can aggravate existing respiratory diseases such as asthma, bronchitis, and emphysema.

Carbon Monoxide

Carbon monoxide is an odorless, colorless gas usually formed as the result of the incomplete combustion of fuels. The single largest source of CO is motor vehicles. While CO transport is limited, it disperses with distance from the source under normal meteorological conditions. However, under certain extreme meteorological conditions, CO concentrations near congested roadways or intersections may reach unhealthful levels that adversely affect local sensitive receptors (e.g., residents, schoolchildren, the elderly, hospital patients, etc.). Typically, high CO concentrations are associated with roadways or intersections operating at unacceptable levels of service (LOS) or with extremely high traffic volumes. Exposure to high concentrations of CO reduces the oxygen-carrying capacity of the blood and can cause headaches, nausea, dizziness, fatigue, impair central nervous system function, and induce angina (chest pain) in persons with serious heart disease. Very high levels of CO can be fatal.

Nitrogen Dioxide

Nitrogen Dioxide is a reddish-brown gas that is a byproduct of combustion processes. Automobiles and industrial operations are the main sources of NO_2. Aside from its contribution to ozone formation, NO_2 also contribute to other pollution problems, including a high concentration of fine particulate matter, poor visibility, and acid deposition. NO_2 may be visible as a coloring component on high pollution days, especially in conjunction with high ozone levels. NO_2 decreases lung function and may reduce resistance to infection. On January 22, 2010 the U.S. Environmental Protection Agency (EPA) strengthened the health-based NAAQS for NO_2.

Sulfur Dioxide

Sulfur dioxide is a colorless, irritating gas formed primarily from incomplete combustion of fuels containing sulfur. Industrial facilities also contribute to gaseous SO_2 levels in the region. SO_2 irritates the respiratory tract, can injure lung tissue when combined with fine particulate matter, and reduces visibility and the level of sunlight.

Particulate Matter

Particulate matter is the term used for a mixture of solid particles and liquid droplets found in the air. Coarse particles are those that are larger than 2.5 microns but smaller than 10 microns (PM_{10}). $PM_{2.5}$ refers to fine suspended particulate matter with an aerodynamic diameter of 2.5 microns or less that is not readily filtered out by the lungs. Nitrates, sulfates, dust, and combustion particulates are major components of PM_{10} and $PM_{2.5}$. These small particles can be directly emitted into the atmosphere as by-products of fuel combustion, through abrasion, such as tire or brake lining wear, or through fugitive dust (wind or mechanical erosion of soil). They can also be formed in the atmosphere through chemical reactions. Particulates may transport carcinogens and other toxic compounds that adhere to the particle surfaces and can enter the human body through the lungs.

Lead

Lead is a metal found naturally in the environment as well as in manufactured products. The major sources of lead emissions have historically been mobile and industrial sources. As a result of the phase-out of leaded gasoline, metal processing is currently the primary source of lead emissions. The highest levels of lead in air are generally found near lead smelters. Other stationary sources are waste incinerators, utilities, and lead-acid battery manufactures.

Twenty years ago, mobile sources were the main contributor to ambient lead concentrations in the air. In the early 1970s, the U.S. EPA established national regulations to gradually reduce the lead content in gasoline. In 1975, unleaded gasoline was introduced for motor vehicles equipped with catalytic converters. The EPA banned the use of leaded gasoline in highway vehicles in December 1995. As a result of the EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector and levels of lead in the air decreased dramatically.

Air Pollutants of Concern in the Bay Area

High ozone levels are caused by the cumulative emissions of ROG and NO_X. These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduce lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter (PM_{10}) and fine particulate matter ($PM_{2.5}$). Elevated concentrations of PM_{10} and $PM_{2.5}$ are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic Air Contaminants

In addition to the criteria pollutants discussed above, TACs are another group of pollutants of concern. TACs are injurious in small quantities and are regulated by the EPA and the California Air Resources Board (CARB). Some examples of TACs include benzene, butadiene, formaldehyde, and hydrogen sulfide. The identification, regulation, and monitoring of TACs is relatively recent compared to that for criteria pollutants.

High volume freeways, stationary diesel engines, and facilities attracting heavy and constant diesel vehicle traffic (distribution centers, truck stops) were identified as posing the highest risk to adjacent receptors. Other facilities associated with increased risk include warehouse distribution centers, large retail or industrial facilities, high volume transit centers, or schools with a high volume of bus traffic. Community health risk assessments typically look at all substantial sources of TACs located within 1,000 feet of project sites and at new TAC sources that would be introduced by the project. These sources include railroads, highways, busy surface streets, and stationary sources identified by BAAQMD. The Union Pacific Railroad/Caltrain is east of the project site. A review of the project area indicates that traffic on State Route 87 (SR 87) and Almaden Expressway have an average daily traffic (ADT) of over 10,000 vehicles. All other roadways within the area are assumed to have an ADT that is less than 10,000 vehicles. Five stationary sources were identified within the 1,000-foot influence area using the BAAQMD's stationary source stationary source website map and Google Earth map.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). According to the CARB, diesel exhaust is a complex mixture of gases, vapors, and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the state's Proposition 65 or under the Federal Hazardous Air Pollutants programs. Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level.

Table 2 Health Effects of Air Pollutants		
Pollutants	**Sources**	**Primary Effects**
Carbon Monoxide (CO)	• Incomplete combustion of fuels and other carbon-containing substances, such as motor exhaust. • Natural events, such as decomposition of organic matter.	• Reduced tolerance for exercise. • Impairment of mental function. • Impairment of fetal development. • Death at high levels of exposure. • Aggravation of some heart diseases (angina).
Nitrogen Dioxide (NO_2)	• Motor vehicle exhaust. • High temperature stationary combustion. • Atmospheric reactions.	• Aggravation of respiratory illness. • Reduced visibility. • Reduced plant growth. • Formation of acid rain.
Ozone (O_3)	• Atmospheric reaction of organic gases with nitrogen oxides in sunlight.	• Aggravation of respiratory and cardiovascular diseases. • Irritation of eyes. • Impairment of cardiopulmonary function. • Plant leaf injury.
Lead (Pb)	• Contaminated soil.	• Impairment of blood functions and nerve construction. • Behavioral and hearing problems in children.
Suspended Particulate Matter ($PM_{2.5}$ and PM_{10})	• Stationary combustion of solid fuels. • Construction activities. • Industrial processes. • Atmospheric chemical reactions.	• Reduced lung function. • Aggravation of the effects of gaseous pollutants. • Aggravation of respiratory and cardiorespiratory diseases. • Increased cough and chest discomfort. • Soiling. • Reduced visibility.
Sulfur Dioxide (SO_2)	• Combustion of sulfur-containing fossil fuels. • Smelting of sulfur-bearing metal ores. • Industrial processes.	• Aggravation of respiratory diseases (asthma, emphysema). • Reduced lung function. • Irritation of eyes. • Reduced visibility. • Plant injury. • Deterioration of metals, textiles, leather, finishes, coatings, etc.
Toxic Air Contaminants	• Cars and trucks, especially diesels. • Industrial sources such as chrome platers. • Neighborhood businesses such as dry cleaners and service stations. • Building materials and product.	• Cancer. • Chronic eye, lung, or skin irritation. • Neurological and reproductive disorders.
Source: CARB, 2009. ARB Fact Sheet: Air Pollution and Health, see: https://www.arb.ca.gov/research/health/fs/fs1/fs1.htm accessed May 1, 2018.		

Air Quality Setting

The project is located in Santa Clara County, which is part of the San Francisco Bay Area Air Basin. The Air Basin includes the counties of San Francisco, Santa Clara, San Mateo, Marin, Napa, Contra Costa, and Alameda, along with the southeast portion of Sonoma County and the southwest portion of Solano County.

This project is within the jurisdiction of the BAAQMD. Air quality conditions in the San Francisco Bay Area have improved significantly since the BAAQMD was created in 1955. Ambient concentrations of air pollutants, and the number of days during which the region exceeds air quality standards, have fallen dramatically. Exceedances of air quality standards occur primarily during meteorological conditions conducive to high pollution levels, such as cold, windless winter nights or hot, sunny summer afternoons.

Local Climate and Air Quality

Air quality is a function of both local climate and local sources of air pollution. Air quality is the balance of the natural dispersal capacity of the atmosphere and emissions of air pollutants from human uses of the environment. Climate and topography are major influences on air quality.

Climate and Meteorology

During the summer, mostly clear skies result in warm daytime temperatures and cool nights in the Santa Clara Valley. Winter temperatures are mild, except for very cool but generally frost-less mornings. Further inland, where the moderating effect of the bay is not as strong, temperature extremes are greater. Wind patterns are influenced by local terrain, with a northwesterly sea breeze typically developing during the daytime. Winds are usually stronger in the spring and summer. Rainfall amounts are modest, ranging from 13 inches in the lowlands to 20 inches in the hills.

Air Pollution Potential

Ozone and fine particle pollution, or $PM_{2.5}$, are the major regional air pollutants of concern in the San Francisco Bay Area. Ozone is primarily a problem in the summer, and fine particle pollution in the winter. Most of Santa Clara County is well south of the cooler waters of the San Francisco Bay and far from the cooler marine air which usually reaches across San Mateo County in summer. Ozone frequently forms on hot summer days when the prevailing seasonal northerly winds carry ozone precursors southward across the county, causing health standards to be exceeded. Santa Clara County experiences many exceedances of the $PM_{2.5}$ standard each winter. This is due to the high population density, wood smoke, industrial and freeway traffic, and poor wintertime air circulation caused by extensive hills to the east and west that block wind flow into the region. Recently, wildfires have caused many days per year of unhealthy air during summer and fall due to high particle pollution (e.g., $PM_{2.5}$ and PM_{10} levels that exceed standards).

Attainment Status Designations

The CARB is required to designate areas of the state as attainment, nonattainment, or unclassified for all state standards. An “attainment” designation for an area signifies that pollutant concentrations did not violate the standard for that pollutant in that area. A “nonattainment” designation indicates that a pollutant concentration violated the standard at least once, excluding those occasions when a violation was caused by an exceptional event, as defined in the criteria. An “unclassified” designation signifies that data does not support either an attainment or nonattainment status. The CCAA divides districts into moderate, serious, and severe air pollution categories, with increasingly stringent control requirements mandated for each category.

Table 3 shows the state and federal standards for criteria pollutants and provides a summary of the attainment status for the San Francisco Bay Area with respect to national and state ambient air quality standards.

Table 3
NAAQS, CAAQS, and San Francisco Bay Area Attainment Status

Pollutant	Averaging Time	California Standards		National Standards	
		Concentration	Attainment Status	Concentration	Attainment Status
Carbon Monoxide (CO)	8-Hour	9 ppm (10 mg/m^3)	Attainment	9 ppm (10 mg/m^3)	Attainment
	1-Hour	20 ppm (23 mg/m^3)	Attainment	35 ppm (40 mg/m^3)	Attainment
Nitrogen Dioxide (NO_2)	Annual Mean	0.030 ppm (57 mg/m^3)	Attainment	0.053 ppm (100 µg/m^3)	Attainment
	1-Hour	0.18 ppm (338 µg/m^3)	Attainment	0.100 ppm	Unclassified
Ozone (O_3)	8-Hour	0.07 ppm (137 µg/m^3)	Nonattainment	0.070 ppm	Nonattainment
	1-Hour	0.09 ppm (180 µg/m^3)	Nonattainment	Not Applicable	Not Applicable
Suspended Particulate Matter (PM_{10})	Annual Mean	20 µg/m^3	Nonattainment	Not Applicable	Not Applicable
	24-Hour	50 µg/m^3	Nonattainment	150 µg/m^3	Unclassified
Suspended Particulate Matter ($PM_{2.5}$)	Annual Mean	12 µg/m^3	Nonattainment	12 µg/m^3	Attainment
	24-Hour	Not Applicable	Not Applicable	35 µg/m^3	Nonattainment
Sulfur Dioxide (SO_2)	Annual Mean	Not Applicable	Not Applicable	80 µg/m^3 (0.03 ppm)	Attainment
	24-Hour	0.04 ppm (105 µg/m^3)	Attainment	365 µg/m^3 (0.14 ppm)	Attainment
	1-Hour	0.25 ppm (655 µg/m^3)	Attainment	0.075 ppm (196 µg/m^3)	Attainment

Lead (Pb) is not listed in the above table because it has been in attainment since the 1980s. ppm = parts per million, mg/m^3 = milligrams per cubic meter, µg/m^3 = micrograms per cubic meter
Source: Bay Area Air Quality Management District, 2017. Air Quality Standards and Attainment Status. January 5.

Existing Air Pollutant Levels

BAAQMD monitors air pollution at various sites within the Bay Area. The closest air monitoring station (158 Jackson Street) that monitored O_3, CO, NO, NO_2, PM_{10}, and $PM_{2.5}$ over the past 5 years (2015 through 2019) is in the City of San José approximately 3.5 miles north of the project site. The data shows that during the past few years, the project area has exceeded the state and/or federal O_3, PM_{10}, and $PM_{2.5}$ ambient air quality standards. Table 4 lists air quality trends in data collected for the past 5 years and published by the BAAQMD and CARB, which is the most recent time-period available. Ozone standards (includes 1-hr concentration and 8-hr concentration) were exceeded for 1 to 4 days annually in 2015 through 2019. Measured 24-hour PM_{10} concentrations were exceeded for 4 to 6 days in 2017 through 2019 and $PM_{2.5}$ concentrations were exceeded for 6 to 15 days in 2017 and 2018. Note that these levels were influenced by smoke from wildfires.

Table 4 Ambient Air Quality Concentrations from 2015 through 2018						
Pollutant	**Standard**	**2015**	**2016**	**2017**	**2018**	**2019**
Ozone						
Max 1-hr concentration		94 ppb	87 ppb	121 ppb	78 ppb	95 ppb
No. days exceeded: CAAQS	90 ppb	0	0	3	0	1
Max 8-hr concentration		81 ppb	66 ppb	98 ppb	61 ppb	81 ppb
No. days exceeded: CAAQS	70 ppb	2	0	4	0	2
NAAQS	70 ppb	2	0	4	0	2
Carbon Monoxide						
Max 1-hr concentration		2.4 ppm	2.0 ppm	2.1 ppm	2.5 ppm	1.7 ppm
No. days exceeded: CAAQS	20 ppm	0	0	0	0	0
NAAQS	35 ppm	0	0	0	0	0
Max 8-hr concentration		1.8 ppm	1.4 ppm	1.8 ppm	2.1 ppm	1.3ppm
No. days exceeded: CAAQS	9.0 ppm	0	0	0	0	0
NAAQS	9 ppm	0	0	0	0	0
PM_{10}						
Max 24-hr concentration		58 µg/m^3	41 µg/m^3	70 µg/m^3	122 µg/m^3	77 µg/m^3
No. days exceeded: CAAQS	50 µg/m^3	1	0	6	4	4
NAAQS	150 µg/m^3	0	0	0	0	0
Max annual concentration		22.0 µg/m^3	18.5 µg/m^3	21.6 µg/m^3	23.1 µg/m^3	19.2 µg/m^3
No. days exceeded: CAAQS	-	-	-	-	-	-
$PM_{2.5}$						
Max 24-hr concentration		49.4 µg/m^3	22.6µg/m^3	49.7 g/m^3	133.9µg/m^3	27.6 µg/m^3
No. days exceeded: NAAQS	35 µg/m^3	2	0	6	15	0
Annual Concentration		10.0 g/m^3	8.4 µg/m^3	9.5 µg/m^3	12.8µg/m^3	12.8µg/m^3
No. days exceeded: CAAQS	12 µg/m^3	-	-	-	-	-
NAAQS	12 µg/m^3	-	-	-	-	-
Nitrogen Dioxide						
Max 1-hr concentration		49 ppb	51 ppb	68 ppb	86 ppb	60 ppb
No. days exceeded: CAAQS	0.18 ppm	0	0	0	0	0
NAAQS	0.100 ppm	0	0	0	0	0
Annual Concentration		13 ppb	11 ppb	12 ppb	13 ppb	11 ppb
No. days exceeded: CAAQS	0.030 ppm	-	-	-	-	-
NAAQS	0.053 ppm	-	-	-	-	-

Source: Bay Area Air Quality Management District, 2020, Web: https://www.baaqmd.gov/about-air-quality/air-quality-summaries. California Air Resource Board, 2020, Web: https://arb.ca.gov/adam/select8/sc8start.php

Sensitive Receptors

There are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools. The closest sensitive receptors to the project site are the adjacent (within 100 feet) single- and multi-family residences to the north, west, and south of the project site. There are additional residences at farther distances from the project site. This project would introduce new sensitive receptors to the area.

3.3.2 Impacts and Mitigation

3.3.2.1 *BAAQMD Thresholds*

The City of San José uses the thresholds of significance established by the BAAQMD to assess air quality impacts of proposed development. The BAAQMD CEQA Guidelines include screening levels and thresholds for evaluating air quality impacts in the Bay Area. The applicable thresholds are presented below in Table 5.

Table 5
BAAQMD Air Quality Significance Thresholds

Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG, NO_x,	54	54	10
$PM_{2.5}$	54 (exhaust)	54	10
PM_{10}	82 (exhaust)	82	15
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust ($PM_{2.5}$, PM_{10})	Dust Control Measures or other Best Management Practices	None	
Health Risks and Hazards for Sources within 1,000 Feet of Project			
Excess Cancer Risk	10 per one million	10 per one million	
Chronic or Acute Hazard Index	1.0	1.0	
Incremental annual average $PM_{2.5}$	0.3 µg/m^3	0.3 µg/m^3	
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	100 per 1 million		
Chronic Hazard Index	10.0		
Annual Average $PM_{2.5}$	0.8 µg/m^3		

Notes: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, and $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; GHG = greenhouse gas; ppm = parts per million; µg/m^3 = micrograms per cubic meter

3.3.2.2 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to air quality would be considered significant if the project would:

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

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

c) Expose sensitive receptors to substantial pollutant concentrations; or

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

3.3.2.3 *Project Impacts*

Baseline Conditions - COVID

This air quality assessment was prepared using information reflective of pre-COVID conditions and prior to the enaction of shelter-in-place orders. The only input to this air quality analysis that could be affected by current COVID conditions is traffic. Impacts to air quality that use traffic conditions were addressed in two ways:

1. The air quality analysis predicted emissions of air pollutants from traffic using project trip generation rates. These traffic generation rates are based on pre-COVID conditions and would be higher than during-COVID conditions where occupants and users of the project would presumably generate fewer trips. This would result in lower emissions during-COVID conditions. Air pollutant emissions are compared to thresholds to judge the impacts. Thus, the air quality impacts represent conservative evaluations.

2. A health risk assessment of construction activities was prepared as part of the air quality assessment. This assessment of construction activity is not expected to be different for during-COVID or pre-COVID conditions. However, the assessment includes cumulative impacts that include traffic conditions. As discussed above, the traffic conditions used in the analysis are reflective of pre-COVID conditions that would presumably result in higher predictions of cumulative cancer risk, hazards and annual $PM_{2.5}$ concentrations. Thus, the air quality impacts stated in the health risk assessment represent conservative evaluations.

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

Using the BAAQMD's methodology, a determination of consistency with the 2017 CAP should demonstrate that a project:

1) supports the primary goals of the air quality plan,

2) includes applicable control measures from the air quality plan, and

3) does not disrupt or impede implementation of air quality plan control measures.

The consistency of the project with the applicable control measures is presented below in Table 6. In addition, the proposed project would not conflict with the latest Clean Air planning efforts since:

1) project would have emissions below the BAAQMD thresholds (see below),

2) the project is urban infill, and

3) the project would be located near transit with regional connections.

Based on this analysis, the project would comply with the adopted air quality plan and have a less than significant effect on clean air planning efforts. **Less Than Significant Impact**.

Table 6
2017 CAP Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Measures		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include long-term and short-term bicycle parking consistent with City's Zoning Ordinance standards. Additionally, the project would construct a 7-foot wide sidewalk along its Almaden Road frontage for pedestrian access. Therefore, the project is consistent with this measure.
Energy Control Measures		
Decrease Electricity Demand	Work with local governments to adopt additional energy efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The project would be required to comply with Building Energy Efficiency Standards (Municipal Code Title 24), which would help reduce energy consumption. The project would also be required to comply with the City's Green Building Policy (Council Policy 8-13), which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Building Control Measures		
Green Buildings	Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings.	The project would be required to comply with CALGreen and the City's Green Building Policy (Council Policy 8-13), and the most recent California Building Code which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.

Table 6 2017 CAP Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Water Control Measures		
Support Water Conservation	Develop a list of best practices that reduce water consumption and increase on-site water recycling in new and existing buildings; incorporate into local planning guidance.	The project would be required to adhere to State and local polices to conserve water, including implementation of a storm water control plan consisting of directing runoff to landscaped-base stormwater treatment measures. The project would also be required to incorporate water conservation measures. Therefore, the project is consistent with this control measure.

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

The Bay Area is considered a non-attainment area for ground-level ozone and $PM_{2.5}$ under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM_{10} under the California Clean Air Act, but not the federal act. The area has attained both State and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and PM_{10}, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_X), PM_{10}, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

Previously, CARB recommended the use of Urban Land Use Emissions Model (URBEMIS) for predicting construction and operational emissions. In 2012, URBEMIS was considered outdated and the California Emissions Estimator Model (CalEEMod) Version 2016.3.2 replaced URBEMIS. CalEEMod is an enhanced update to URBEMIS that also includes the indirect emissions of GHGs from land use components that URBEMIS did not consider. CalEEMod was used to estimate emissions from construction and operation of the project, assuming full buildout. The project land use types and size, and anticipated construction schedule were input to CalEEMod. The closest sensitive receptors to the project site are the adjacent single and multi-family residences to the north, west, and south of the project site.

In the 2017 update to the CEQA Air Quality Guidelines, BAAQMD identifies screening criteria for operational and construction related impacts from the sizes of land use projects that could result in significant criteria pollutant emissions. The criteria pollutant screening criteria was developed from default assumptions used by URBEMIS. The current version of CalEEMod has lower emissions rates than URBEMIS; therefore, the screening land uses sizes listed in the BAAQMD CEQA Air Quality Guidelines are appropriate. For operational-related impacts, if the project is under the BAAQMD screening sizes, then the project would not generate operational criteria pollutants above the significance threshold. As for construction-related impacts, if the project is below the screening sizes, includes best construction

management practices, and does not include particular construction activities,[14] then the project would not generate construction criteria pollutants above the significance threshold.

The construction screening size for "condo/townhouse, general" is 240 dwelling units and the operational screening size is 451 dwelling units. Townhome projects of smaller size would be expected to have less than significant impacts with respect to construction and operational period criteria pollutant emissions. Since the project proposes to develop 62 residential condominium units, it is concluded that the project would not need to perform a detailed air quality assessment of its operational criteria air pollutants and precursor emissions. Also, since the project meets BAAQMD's screening criteria, the project would not result in the generation of operational criteria pollutant emissions and/or precursor emissions that would exceed the BAAQMD significance thresholds. Stationary sources of air pollution (e.g., generators) would not be a part of this project.

Although the project construction would be below the screening size and would incorporate best construction management practices, it does include demolition of the two exiting commercial buildings on the site. Therefore, an assessment of the construction criteria pollutant emissions was conducted.

Construction activity is anticipated to include demolition, site preparation, grading, trenching, building construction, architectural coating, and paving. Construction period emissions were modeled using CalEEMod, which provided annual emissions for construction and estimated emissions for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. A construction build-out scenario, including equipment list and schedule, was based on information provided by the project applicant. The proposed land uses were input into CalEEMod as follows:

- 64 dwelling units and 99,075-sf entered as "Apartments Mid Rise" on 0.57-acres,[15]
- 87 parking spaces and 19,815-sf entered as "Enclosed Parking with Elevator,"
- 1,500-square feet of existing building demolition and 200 tons of pavement demolition and hauling,
- 20 cubic yards of soil export during site preparation and 540-cubic yards of soil export during grading, and
- 290 one-way cement truck trips during building construction.

The provided construction schedule assumed that the project would be built out over a period of approximately 19 months or 386 days. Average daily emissions were computed by dividing the total construction emissions by the number of construction days. Table 7 shows average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project. As indicated in this table, the predicted the construction period emissions would not exceed the BAAQMD significance thresholds.

[14] Bay Area Air Quality Management District, *Section 3.5.1 Criteria Air Pollutants and Precursors, CEQA Air Quality Guidelines*, May 2017.

[15] The project has been reduced slightly since completion of the technical studies for this project (from 64 to 62 units). This decrease does not change the results of the technical studies as these studies evaluated the original, larger configuration of the project and represents a conservative analysis.

Table 7 Construction Period Emissions				
Source	**ROG**	**NOx**	**PM_{10} Exhaust**	**$PM_{2.5}$ Exhaust**
Total construction emissions (tons)	0.79 tons	0.82 tons	0.03 tons	0.03 tons
Average daily emissions (pounds)[1]	4.09 lbs./day	4.23 lbs./day	0.15 lbs./day	0.14 lbs./day
BAAQMD Thresholds (pounds per day)	*54* lbs./day	*54* lbs./day	*82* lbs./day	*54* lbs./day
Exceed Threshold?	No	No	No	No
Notes: [1]Assumes 386 workdays.				

In addition, construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce these emissions. These would be required as standard conditions of project of approval, as presented below, to be implemented during all phases of construction to control dust and exhaust at the project site.

Standard Permit Conditions

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics

control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.

- Maintain and property tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of the standard permit conditions identified above, this represents a **Less than Significant Impact**.

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

Project impacts related to increased community risk can occur by introducing a new source of TACs with the potential to adversely affect existing sensitive receptors in the project vicinity. Project impacts would include temporary construction activity.

Temporary project construction activity would generate dust and equipment exhaust, in the form of DPM, on a temporary basis that could affect nearby sensitive receptors. Community risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations and computing the Hazard Index (HI) for non-cancer health risks.

Operation of the project is not expected to be a source of TAC or localized air pollutant emissions. The project would not include the installation of emergency generators powered by diesel engines that would also have emissions of TACs and air pollutants. Additionally, the project would generate some traffic, consisting of mostly light-duty vehicles. However, the number of daily trips generated by the project after trip reductions are below 10,000 trips a day (i.e., 298 daily trips)[16] to not be considered a source of substantial TACs or $PM_{2.5}$. According to BAAQMD, less than 10,000 total vehicle trips per day is considered a low-impact source of TACs. With majority of the trips being from light-duty vehicles, emissions from project traffic are considered negligible.

Community Risk Impacts Associated with Construction

Community risk impacts are addressed by predicting increased lifetime cancer risk, the increase in annual $PM_{2.5}$ concentrations, and computing the HI for non-cancer health risks. These sources include on-site construction activity and construction truck hauling from the project. To evaluate the increased cancer risks from the project, a 30-year exposure period was used, per BAAQMD guidance,[17] with the sensitive receptors being exposed to project construction emissions during this timeframe.

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. These exhaust air pollutant emissions would not be considered to contribute substantially to existing or projected air quality violations. Construction exhaust

[16] Hexagon Transportation Consultants. *1747 Almaden Road Residential Development Transportation Analysis*. March 2020.
[17] BAAQMD, 2016. *BAAQMD Air Toxics NSR Program Health Risk Assessment (HRA) Guidelines*. December 2016.

emissions may still pose health risks for sensitive receptors such as surrounding residents. The primary community risk impact issue associated with construction emissions are cancer risk and exposure to $PM_{2.5}$. Diesel exhaust poses both a potential health and nuisance impact to nearby receptors. A health risk assessment of the project construction activities was conducted that evaluated potential health effects to nearby sensitive receptors from construction emissions of DPM and $PM_{2.5}$.[18] This assessment included dispersion modeling to predict the offsite and onsite concentrations resulting from project construction, so that lifetime cancer risks and non-cancer health effects could be evaluated.

Construction activity is anticipated to include demolition, site preparation, grading, trenching, building construction, architectural coating, and paving. Construction period emissions were modeled using CalEEMod, which provided annual emissions for construction and estimated emissions for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. A construction build-out scenario, including equipment list and schedule, was based on information provided by the project applicant. The proposed land uses were input into CalEEMod as follows:

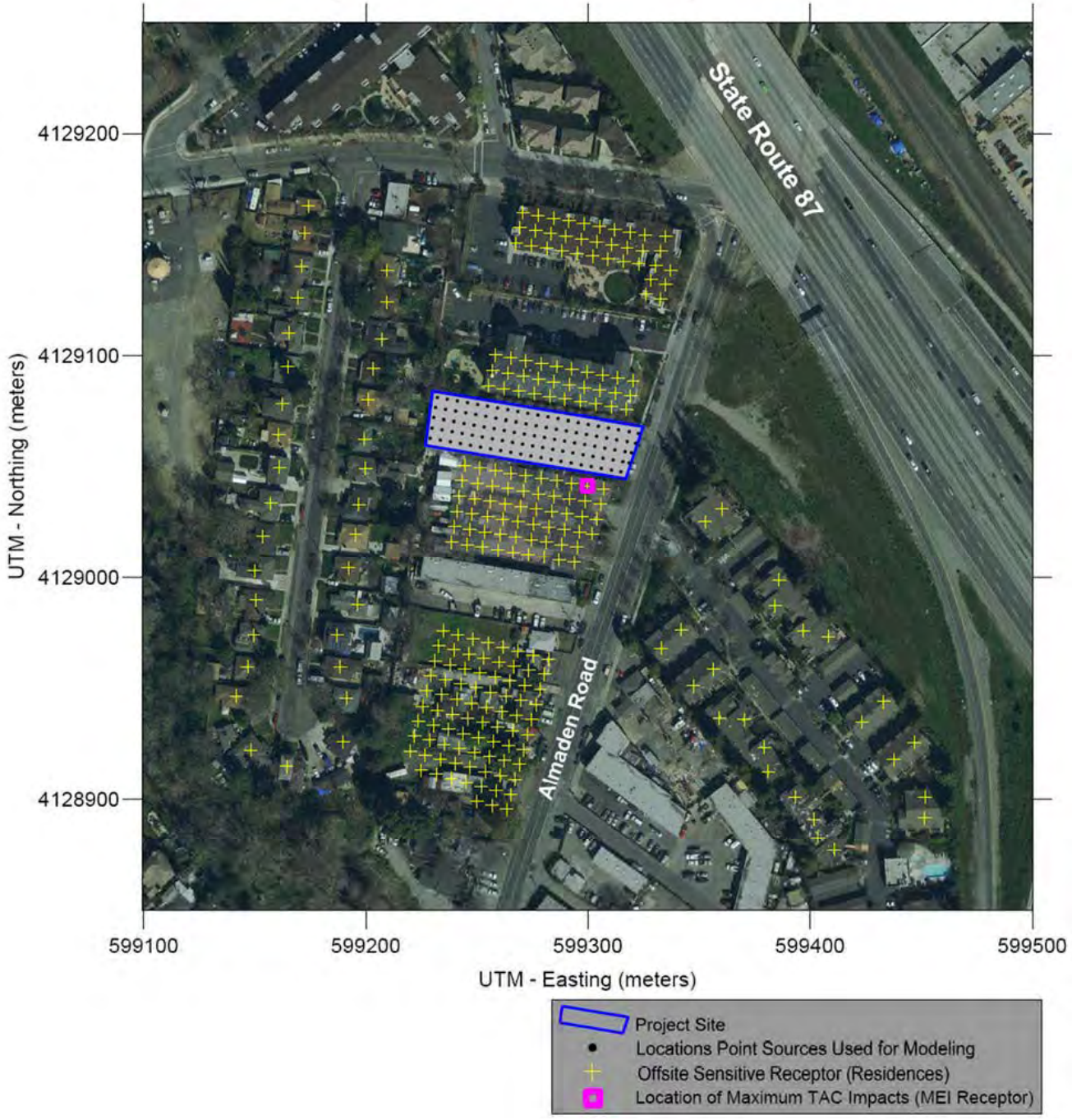
- 64 dwelling units and 99,075-sf entered as "Apartments Mid Rise" on 0.57-acres,[19]
- 87 parking spaces and 19,815-sf entered as "Enclosed Parking with Elevator,"
- 1,500-square feet of existing building demolition and 200 tons of pavement demolition and hauling,
- 20 cubic yards of soil export during site preparation and 540-cubic yards of soil export during grading, and
- 290 one-way cement truck trips during building construction.

The provided construction schedule assumed that the project would be built out over a period of approximately 19 months, beginning in 2021.

The maximum-modeled annual DPM and $PM_{2.5}$ concentrations, which includes both the DPM and fugitive $PM_{2.5}$ concentrations, were identified at nearby sensitive receptors as shown in Figure 13, to find the maximally exposed individuals (MEIs). Using the maximum annual modeled DPM concentrations, the maximum increased cancer risks were calculated using BAAQMD recommended methods and exposure parameters. Non-cancer health hazards and maximum $PM_{2.5}$ concentrations were also calculated and identified. Non-cancer health hazards from TAC exposure are expressed in terms of a HI.

Results of this assessment indicated that the cancer risk MEI was located at a residential unit on the third floor (25 feet above ground) and the $PM_{2.5}$ concentration MEI was located at a residential unit on the second floor (15 feet above ground) of the apartment building south of, and adjacent to, the southern project boundary (see Figure 13). The maximum increased cancer risks from construction exceeds its BAAQMD single-source thresholds of greater than 10.0 per million. Table 8 and Table 9 summarize the maximum cancer risks, $PM_{2.5}$ concentrations, and health hazard indices for project related construction activities affecting the MEIs.

[18] DPM is identified by California as a toxic air contaminant due to the potential to cause cancer.
[19] The project has been reduced slightly since completion of the technical studies for this project (from 64 to 62 units). This decrease does not change the results of the technical studies as these studies evaluated the original, larger configuration of the project and represent a conservative analysis.



Source: Illingworth & Rodkin, September 2020

Location of Sensitive Receptors and Maximum TAC Impacts

Overall, the maximum increased residential cancer risk at the MEI would be 31.8 for infant exposure, which exceeds the BAAQMD single-source threshold of greater than 10.0 per million. The maximum $PM_{2.5}$ concentration and HI risk value do not exceed the BAAQMD single-source thresholds, as shown in Table 8 and Table 9 below.

Table 8
Impacts from Project Construction Off-site Residential MEI

Source	Maximum Cancer Risk (per million)	$PM_{2.5}$ concentration ($\mu g/m^3$)	Hazard Index
Project Construction			
Unmitigated	**31.8 (infant)**	0.14	0.02
Mitigated	3.8 (infant)	0.02	<0.01
BAAQMD Threshold – Single Source	***>10.0***	***>0.3***	***>1.0***
Exceeds Single Threshold?			
Unmitigated	***Yes***	*No*	*No*
Mitigated*	*No*	*No*	*No*

* Construction equipment engines with Tier 4 Interim and electric crane mitigation measures.

Table 9
Impacts from Combined Sources at Off-Site Construction MEI

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Project Construction			
Unmitigated	**31.8 (infant)**	0.14	0.02
Mitigated	3.8 (infant)	0.02	<0.01
BAAQMD Single-Source Source Threshold	*>10.0*	*>0.3*	*>1.0*
Railroad at 680 feet east	0.5	<0.01	<0.01
SR 87 at 400 feet east	3.2	0.14	<0.01
Almaden Expressway (north-south) at 815 feet east, ADT 22,890	0.6	0.02	<0.03
Plant #19807 (Generator) at 745 feet west	4.6	<0.01	<0.01
Plant #14986 (Auto Body Coating) at 920 feet north	--	--	<0.01
Plant #10302 (Auto Body Coating) at 1,000 feet north	--	--	<0.01
Plant #14779 (Auto Body Coating) at 960 feet east	<0.1	<0.01	<0.01
Plant #23304 (Auto Body Coating) at 960 feet east	--	--	<0.01
Combined Sources			
Unmitigated	<40.8 (infant)	<0.33	<0.12
Mitigated	<12.8 (infant)	<0.21	<0.11
BAAQMD Cumulative Source Threshold	*>100*	*>0.8*	*>10.0*
Exceed Any Thresholds?			
Unmitigated	***Yes***	*No*	*No*
Mitigated	*No*	*No*	*No*

Impact AQ-1: Project construction would result in an infant cancer risk of 31.8 in one million at the maximally exposed individual (MEI), which exceeds the BAAQMD significance threshold.

Mitigation Measures

MM AQ-1 Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant shall prepare a construction operations plan with equipment verified by an air quality specialist that demonstrates off-road equipment used on-site to construct the project would achieve a fleet-wide average of a 70 percent reduction or more in diesel particulate matter (DPM) exhaust emissions. Specifically, this plan shall include, but is not limited to, the measures identified below:

- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines. Where equipment meeting Tier 4 standards are not available, the equipment will be required to include CARB-certified Level 3 Diesel Particulate Filters that are considered CARB verified diesel emission control devices (VDECs). The use of equipment that includes electric or alternatively-fueled equipment (i.e., non-diesel) would also meet this requirement.

- Stationary construction cranes (building cranes) shall be powered by electricity.

Implementation of MM AQ-1, using Tier 4 Interim engines and electric cranes, would reduce on-site diesel exhaust emissions from construction equipment by 88-percent. With mitigation, the computed maximum increased lifetime residential cancer risk from construction at the MEI, assuming infant exposure, would be 3.8 in one million or less. The mitigated cancer risk would no longer exceed its single-source significance thresholds.

Combined Community Health Risk at Off-site Construction MEI

Table 9 reports both the project and cumulative community risk impacts at the sensitive receptor most affected by construction (i.e., the construction MEI). Without mitigation, the project's community risk from project construction activities would exceed the single-source maximum cancer risk significance threshold. The combined annual cancer risk, $PM_{2.5}$ concentration, and HI values, which includes the unmitigated and mitigated scenarios, would not exceed their respective cumulative thresholds. With the incorporation of Mitigation Measure AQ-1, the project construction's single-source and cumulative-source risks would not exceed the significance thresholds and would result in a **Less Than Significant Impact with Mitigation Incorporated**.

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

The proposed project consists of residential uses. Common sources of odors and odor complaints are uses such as transfer stations, recycling facilities, painting/coating facilities, landfills, and wastewater treatment plants. The proposed residential uses would not create new sources of odor. During construction, use of diesel-powered vehicles and equipment could

temporarily generate localized odors, which would cease upon project completion. **Less Than Significant Impact**.

Non-CEQA Effects

The proposed residential project would introduce new residents that are sensitive receptors. In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing air pollutants from off-site sources on new sensitive receptors introduced by the project would not be considered an impact under CEQA.

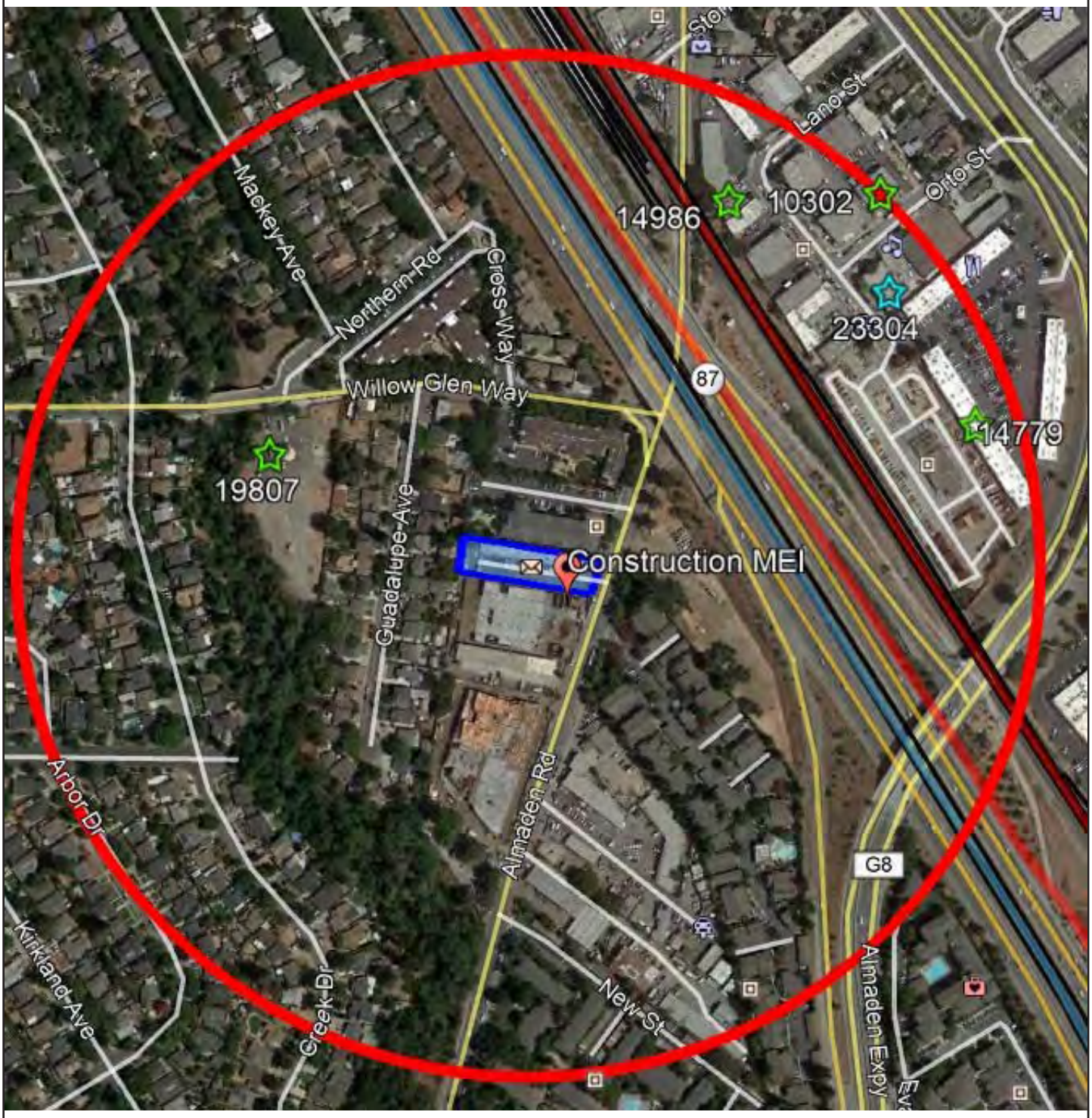
However, General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution and the identification of project design measures to avoid significant risks. The project proposes new sensitive receptors (elderly residential occupants) in the proximity of nearby potential TAC sources. Though not necessarily a CEQA issue, the effect of existing TAC sources on future project receptors was conducted to comply with the 2017 CAP goal of reducing TAC exposure and protecting public health as well as the City's General Plan Policy MS-11.1.

Operational Community Health Risk – New Project Residences

The health risk assessment was completed to assess the impact that existing TAC sources would have on the new proposed sensitive residential receptors. The same TAC sources identified above were used in the health risk assessment.

Railroad – Caltrain. The closest project site boundary is about 615 feet west from the Caltrain rail line. DPM and $PM_{2.5}$ concentrations were calculated at receptor locations placed within the proposed residential areas using a grid of receptors with 7-meter (23 feet) spacing. Receptor heights of 6.1 meters (20 feet) and 9.1 meters (30 feet), representative of breathing heights on the second and third floor levels of the project, were used in the modeling. The second-floor level would be the first level with residences. The maximum modeled DPM and $PM_{2.5}$ concentrations occurred in the residential units closest to Almaden Road on the second-floor level. The location where the maximum modeled long-term on-site DPM and $PM_{2.5}$ concentrations occurred are shown in Figure 14.

The risk impacts from the railroad on the project receptors are presented in Table 10. The maximum increased cancer risk at the project site was computed as 0.7 in one million. The location of maximum cancer risks is shown in Figure 13. Increased cancer risks at residences on floor levels above the second floor would be less than the maximum cancer risk on the second-floor level. Based on the rail line modeling, the maximum $PM_{2.5}$ concentration at the project site was 0.001 $\mu g/m^3$, occurring at the same receptor that had the maximum cancer risk on the second-floor level.



Source: Illingworth & Rodkin, September 2020

Project Site and Nearby TAC and PM2.5 Sources

Almaden Villas
Draft EIR

Figure
14

Highways – SR 87. The closest project site boundary is about 300 feet west from SR 87. Figure 14 shows the roadway links and onsite receptor locations used in the modeling. The risk impacts from the highway on the project receptors are presented in Table 10. The maximum impacts occurred at the second floor level in proposed residential units closest to SR 87. The maximum increased cancer risk at the project site was computed as 4.9 in one million. Increased cancer risks at residences on floor levels above the second floor would be less than the maximum cancer risk on the second-floor level. The maximum $PM_{2.5}$ concentration at the project site was 0.22 $\mu g/m^3$, occurring at the same receptor that had the maximum cancer risk on the second-floor level. The maximum predicted annual DPM concentration from SR 87 traffic was 0.00513 $\mu g/m^3$. This concentration results in a HI below the thresholds.

Local Roadways – Almaden Expressway. The project receptors (future residents) would be 790 feet west of Almaden Expressway. The health risk results are provided in Table 10 below. None of the significance thresholds would be exceeded at the proposed residential use.

Stationary Sources. For Plant #19807, the modeled maximum DPM concentration occurred on the fourth-floor level in the southwest corner of the project residential area. The health risk results are provided in Table 10. None of the significance thresholds would be exceeded at the proposed residential use.

Combined Community Health Risk at Project Site. As shown in Table 10, the annual cancer risks, annual $PM_{2.5}$ concentrations, and HIs are all below their respective single-source and cumulative significance thresholds.

Table 10
Community Risk Impact to New Project Residents

Source	Cancer Risk (per million)	Annual $PM_{2.5}$ ($\mu g/m^3$)	Hazard Index
Railroad at 615 feet west	0.7	<0.01	<0.01
SR 87 at 300 feet west	3.8	0.16	<0.01
Almaden Expressway (north-south) at 790 feet west, ADT 22,890	0.7	0.02	<0.03
Plant #19807 (Generator) at 380 feet west	8.8	0.02	<0.01
Plant #14986 (Auto Body Coating) at 820 feet north	--	--	<0.01
Plant #10302 (Auto Body Coating) at 1,000 feet north	--	--	<0.01
Plant #14779 (Auto Body Coating) at 860 feet east	<0.1	<0.01	<0.01
Plant #23304 (Auto Body Coating) at 860 feet east	--	--	<0.01
BAAQMD Single-Source Threshold	***>10.0***	***>0.3***	***>1.0***
Significant?	*No*	*No*	*No*
Cumulative Total	14.1	0.22	<0.10
BAAQMD Cumulative Source Threshold	***>100***	***>0.8***	***>10.0***
Significant?			
Unmitigated	*No*	*No*	*No*
Mitigated	*No*	*No*	*No*

Conclusion: All project-level impacts on air quality would be less than significant with mitigation and implementation of standard permit conditions and applicable General Plan Policies, as identified above.

3.4 Biological Resources

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal and State

Special-Status Species

Individual plant and animal species listed as rare, threatened or endangered under state and federal Endangered Species Acts are considered 'special-status species.' Federal and state "endangered species" legislation has provided the United Stated Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project will result in the "take" of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species. "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species.

In addition to species listed under state and federal Endangered Species Acts, Section 15380(b) and (c) of the CEQA Guidelines provided that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protection

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbances during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. Additionally, nesting birds are considered special-status species are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and /or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Regional and Location

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (HCP) was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. The HCP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The project site is located within the boundaries of the HCP and is designated as follows:

- Area 4: Urban Development Equal to or Greater than 2 Acres Covered
- Land Cover: Urban-Suburban
- Land Cover Fee Zone: Urban Areas (No Land Cover Fee) and Fee Zone C (Small Vacant Sites Under 10 Acres)

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

City of San José Tree Ordinance

The City of San José's Municipal Code includes tree protection measures (Municipal Code Title 13, Chapters 13.28 [Street Trees, Hedges and Shrubs] and 13.32 [Tree Removal Controls]) that regulate the removal of trees. An "ordinance-sized tree" on private property is defined as any tree having a main stem or trunk, 12 inches in diameter (38 inches or more in circumference) at a height measured 54 inches (4.5 feet) above ground. For multi-trunk trees, the circumference is measured as the sum of the circumferences of all trunks at 54 inches above grade. On single-family or duplex lots, a permit is required to remove ordinance-sized trees, even if they are unhealthy or dead. On multi-family, commercial, or industrial lots, a permit is required to remove a tree of any size. The Code defines a "heritage tree" as any tree that because of factors including but not limited to its history, girth, height, species or unique quality, has been found by the City Council to have a special significance to the community. Pruning or removing a heritage tree is illegal without first consulting the City Arborist and obtaining a permit. Finally, street trees are those that are located in the public right-of-way between the curb and sidewalk. A permit is required before pruning or removing a street tree.

Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design

The City's Riparian Corridor Policy Study analyzed streams and riparian corridors in the City of San José and addresses how development should protect and preserve these riparian corridors. Furthermore, the City's Riparian Corridor Protection and Bird-Safe Design Policy (Council Policy 6-34) supplements the regulations for riparian corridors and provides guidance for project design that protects and preserves these riparian corridors (City of San José 2016). The Riparian Corridor Policy applies to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation, whichever is greater. It requires commercial/industrial buildings to observe a 100-foot setback from the riparian corridor and orient loading docks and other major activity areas away from the riparian corridors (City of San José 2016).

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating biological resource impacts from development projects. The following policies are applicable to the proposed project.

Envision San José 2040 Relevant Biological Resource Policies	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

Envision San José 2040 Relevant Biological Resource Policies	
Policy MS-21.8	For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals: 1. Avoid conflicts with nearby power lines. 2. Avoid potential conflicts between tree roots and developed areas. 3. Avoid use of invasive, non-native trees. 4. Remove existing invasive, non-native trees. 5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species. 6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

3.4.1.2 *Existing Conditions*

The project site is currently developed and occupied by two vacant commercial buildings, which has been historically used for auto body and repair. Most of the project site is paved; however, the western portion of the project site contains four non-native trees that will be removed as part of the project. A tree survey was completed for the project (Urban Tree Management Inc., July 2020) and is contained in Appendix C. The results of the tree survey are presented below in Table 11.

Table 11
Tree Survey Results

No.	Species	Scientific Name	Trunk Size Circum./Diameter (inches)	Condition	Native/ Non-Native	Proposed Action
1	Tree of Heaven	*Ailanthus Altissima*	24.35/7.75	Fair	Non-Native	Remove
2	**Tree of Heaven**	***Ailanthus Altissima***	**84.85/27***	**Fair**	**Non-Native**	**Remove**
3	**Tree of Heaven**	***Ailanthus Altissima***	**80.14/25.5***	**Fair**	**Non-Native**	**Remove**
4	**Tree of Heaven**	***Ailanthus Altissima***	**38.5/12.25***	**Fair**	**Non-Native**	**Remove**

Ordinance size trees are shown in **bold**.
*Indicates multi-trunk tree.
Source: Urban Tree Management Inc., July 2020.

The Guadalupe River is located about 500 feet to the west of the project site. The City's Riparian Corridor Policy applies to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation, whichever is greater. The project is not within 300 feet of either the top of the bank or the edge of vegetation at the Guadalupe River. The project site has been developed with commercial uses for many years and does not support riparian or other vegetation, with the exception of non-native trees.

3.4.2 Impacts and Mitigation

3.4.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to biological resources would be considered significant if the project would:

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;

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service;

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

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

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

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

3.4.2.2 *Project Impacts*

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

Mature trees within or directly adjacent to the project site may provide nesting habitat for migratory birds, including raptors (birds of prey). Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Fish and Game Code Sections 3503 and 3503.5. Construction disturbance, including tree removals, during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "take" by the CDFW and represents a significant impact.

Impact BIO-1: Project construction, including the removal of four trees, that would occur during the breeding season could result in a significant impact to nesting raptors and other protected migratory bird species.

Mitigation Measures

MM BIO-1 **Avoidance:** Prior to the issuance of any tree removal, grading, building or demolition permits (whichever occurs first), the project applicant shall schedule all 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

Nesting Bird Surveys: If construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. 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 latter part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

Buffer Zone: If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in coordination with 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 for raptors and 100 feet for other birds) to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The buffer zone shall remain in place until the qualified ornithologist determines the nest is no longer active or the nesting season ends. If construction ceases for 14 days or more during the early part of the breeding season (February 1st through April 30th, inclusive) or for 30 days or more during the late part of the breeding season (May 1st through August 31st, inclusive), then resumes again during the breeding season, an additional survey shall be necessary to avoid impacts to active bird nests that may have been established during the pause in construction.

Reporting: Prior to any site disturbance, such as tree removal, or the issuance of any grading, building or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.

With implementation of the mitigation measure MM BIO-1, the project's impact to nesting birds and raptors would be less than significant. **Less Than Significant Impact with Mitigation Incorporated**.

b) **Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?**

The proposed project site is located 500 feet east of the top of the bank of the Guadalupe River and would not affect riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations due to developed land situated between the Guadalupe River and the proposed project site. The City's Riparian Corridor Policy applies to projects within 300 feet of a riparian corridor's top of bank or edge of vegetation, whichever is greater. Since the project is not within 300 feet of either the top of the bank or the edge of vegetation at the Guadalupe River, the Riparian Corridor Policy does not apply to the project. The developed land between the river and project site is occupied by a single-family residential

neighborhood and has been developed since approximately 1948. Due to the neighborhood acting as a divider between the river and the proposed project site for over 70 years, the project would have a less than significant impact on riparian habitat or natural communities. **Less Than Significant Impact**.

c) **Would the project 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?**

The proposed project site is situated within an urban residential neighborhood, surrounded by developed/disturbed land use, including existing buildings and paved parking lots. State or federally protected wetlands do not occur within the boundaries of the project; therefore, the project would not have a substantial adverse effect on state or federally protected wetlands. **Less Than Significant Impact**.

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

The project is proposed on an infill site surrounded by development and has not been found to contain any native resident or wildlife species. Surrounding urban land uses discourage the site as a wildlife corridor. Guadalupe River could be potentially defined as a wildlife corridor; however, no direct disturbance is planned for within the Guadalupe River. Therefore, the proposed project would not 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. **Less Than Significant Impact**.

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

The project proposes to remove the four non-native trees on the site, three of which are ordinance size. The City requires replacement of all removed trees in accordance with established tree replacement ratios, as outlined in the standard permit condition below in compliance with the City's Tree Protection Ordinance.

Standard Permit Condition

- Any tree to be removed will be replaced with new trees in accordance with the City's Tree Replacement Ratios, as set forth below.

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size Replacement Tree
	Native*	Non-Native	Orchard	
38 inches or greater	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
*Native trees are those that are naturally inherent to the Santa Clara Valley. These species include, but are not limited to, California Bay Laurel, Aptos Blue Redwood, Valley Oak, California Buckeye, Box Elder, Western Sycamore, and Red Willow. x:x = tree replacement to tree loss ratio 38-inch tree equals 12.1 inches in diameter 24-inch box tree = two 15-gallon trees				

- The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

- In the event that a project site does not have sufficient area to accommodate the required tree replacement, one or more of the following may be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement:

    - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.

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

Conformance with the Standard Permit Conditions above would ensure the project does not conflict with any local policies or ordinances protecting biological resources. As proposed, the project would plant trees for the new development consistent with the City's requirements. Implementation of the standard permit conditions identified above would result in a **Less Than Significant Impact**.

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

The project is located within the SCVHP plan area and is considered a Covered Activity. The project is located on land designated by the SCVHP as Urban-Suburban. The nitrogen deposition fee applies to all projects that create new vehicle trips. A nitrogen deposition fee would be required for each new vehicle trip generated by the project, at the time of development. The project would implement the following standard permit condition in accordance with the SCVHP and would not conflict with the provisions of the Habitat Plan.

Standard Permit Condition

- 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.

Implementation of the standard permit conditions identified above would result in a **Less Than Significant Impact**.

Conclusion: All cumulative-level impacts on biological resources would be less than significant with mitigation and standard permit conditions, as identified above.

3.5 Cultural Resources

The following discussion is based in part on an archaeological literature review prepared by Holman & Associates for the site (September 18, 2019). The archaeological literature review may discuss locations of specific archaeological sites and is confidential. For this reason, it is not included in this document. Qualified personnel, however, may request a copy of the report from the Department of Planning, Building and Code Enforcement located at 200 East Santa Clara Street, 3rd Floor, during normal business hours, or through the Lead Agency contact, Reema Mahamood.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal

National Register of Historic Places

The National Register of Historic Places (National Register or NRHP) is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering, and culture, at the local, State, and national level. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context" and second, the property must retain integrity of those features necessary to convey its significance. A resource is considered eligible for the National Register 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:

1. are associated with events that have made a significant contribution to the broad pattern of our history; or
2. are associated with the lives of persons significant to our past; or
3. 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
4. yielded, or may be likely to yield, information important in prehistory or history.

State

California Health and Safety Code Sections 7050.5 and 7054

Section 7050.5 states that "[i]n the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined… that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation". The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative,

notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Section 7054 of the California Health and Safety Code regulates the disposal of human remains, classifying the disposal of human remains in any place, except in a cemetery, as a misdemeanor offense, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or both that imprisonment and fine. This section does not apply to the reburial of Native American remains.

California Environmental Quality Act (CEQA) and California Register of Historical Resources

CEQA requires regulatory compliance for projects involving historic resources throughout the State. Under CEQA, public agencies must consider the effects of their actions on historic resources (Public Resources Code, Section 21084.1). The CEQA Guidelines define a significant resource as any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (California Register) [see Public Resources Code, Section 21084.1 and CEQA Guidelines Section 15064.5 (a) and (b)].

The California Register of Historical Resources was created to identify resources deemed worthy of preservation and was modeled closely after the National Register of Historic Places. The criteria are nearly identical to those of the National Register, which includes resources of local, State, and regional and/or national levels of significance. Under California Code of Regulation Section 4852(b) and Public Resources Code Section 5024.1, an historical resource generally must be greater than 50 years old and must be significant at the local, State, or national level under one or more of the following four criteria:

1. 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.
2. It is associated with the lives of persons important to local, California, or national history.
3. 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.
4. 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 that have been designated under a local preservation ordinance (local landmarks register or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the California Register and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise (Public Resources Code, Section 5024.1g; California Code of Regulations, Title 14, Section 4850).

California Code of Regulations Section 4852(c) addresses the issue of "integrity," which is necessary for eligibility for the California Register. Integrity is defined as "the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." Section 4852(c) provides that historical resources eligible for listing in the California Register must meet one of the criteria for significance defined by 4852(b)(1 through 4), and retain enough of their historic character of appearance to be recognizable as historical resources and to convey the reasons for their significance.

Native American Heritage Commission

The Native American Heritage Commission (NAHC) was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

California Assembly Bill 52

California AB 52 went into effect on July 1, 2015 and establishes a new category of CEQA resources for "tribal cultural resources" (Public Resources Code §21074). The intent of AB 52 is to provide a process and scope that clarifies California tribal government's involvement in the CEQA process, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources. AB 52 also creates a process for consultation with California Native American Tribes in the CEQA process. Tribal Governments can request consultation with a lead agency and give input into potential impacts to tribal cultural resources before the agency decides what kind of environmental assessment is appropriate for a proposed project. The Public Resources Code requires avoiding damage to tribal cultural resources, if feasible. If not, lead agencies must mitigate impacts to tribal cultural resources to the extent feasible.

Archaeological Resources and Human Remains

Archaeological sites are protected by policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and identifies appropriate measures for the treatment and disposition of human remains and grave-related items.

Both State law and the County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found. If the Coroner determines the remains are Native American, the NAHC and a "most likely descendant" must also be notified.

Local

Historic Preservation Ordinance: City of San José's Criteria for Local Significance

According to the City's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and belongs to one of the following resource categories:

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

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

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:

    a. Of an architectural style, design or method of construction;
    b. Of a master architect, builder, artist or craftsman;
    c. Of high artistic merit;
    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
    e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
    f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A). The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B). Although the definitions listed are the most important determinants in evaluating the historic value of San José resources, the City of San José also has a numerical tally system that must be used in identifying potential historic resources. The "Historic Evaluation Sheet" requires resources to be rated according to visual quality/design; history/association; environment/context; integrity; reversibility; interior quality and conditions; and NRHP/CRHR status. A points-based rating system is used to score each building according to the extent to which it meets the criteria listed above. The final tallies are divided into three categories:

    - Candidate City Landmark (CCL)
    - Structure of Merit (SM) and/or Contributing Structure (CS)
    - Non-Significant (NS)/Non-Contributing Structure (NCS)

According to the City's *Guide to Historic Reports,* a City Landmark is defined as being "a significant historic resource having the potential for landmark designation as defined in the Historic Preservation Ordinance. Preservation of this resource is essential." Preserving Structures of Merit "should be a high priority", although these structures are not considered significant historic resources for the purposes of CEQA.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating cultural resource impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Cultural Resource Policies	
Policy LU-13.22	Require the submittal of historic reports and surveys prepared as part of the environmental review process. Materials shall be provided to the City in electronic form once they are considered complete and acceptable.
Policy LU-14.4	Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

3.5.1.2 *Existing Conditions*

Archaeologic Resources

Holman Associates conducted a records search at the Northwest Information Center of the California Historical Resources Information System (CHRIS), affiliated with Sonoma State University located in Rohnert Park. All identified cultural resources within ¼ mile were examined and studies within or abutting the project area were reviewed. In addition, studies on file at Holman & Associates' library were reviewed.

No archaeological sites have been identified within the project area. In northern Santa Clara County, Native American archaeological sites have been recorded adjacent to major creeks and tributaries, especially near confluences. Often these resources were buried by alluvium or fill. The project site is located approximately 500 feet east of the Guadalupe River, suggesting a moderate to high potential for Native American resources. The archaeological review concluded that the project site has a moderate to high potential for Native American resources within the project area, especially buried resources.

Historic Resources

The site contains a one story five-unit building constructed circa 1962 and several temporary buildings that appear to be less than 45 years of age. The site has been used for commercial/industrial purposes such as auto body and repair. The site was previously used for agricultural purposes until about 1962, at which point the primary building on site was constructed. The building is a long, rectangular flat roofed structure clad with stucco. Each unit has a primary entry and garage door protected by a metal awning above. The doors appear to be solid and the wood paneled garage doors each contain three lights. There are alternating vertical panels of glass block. The building was designed in a basic, utilitarian fashion and does not exhibit any historic architectural style, design or method of construction, and there is no known architect. The property is not associated with any persons, eras or events that have contributed to local, regional, state, or national history in a significant way. Therefore, the property is not considered a historical resource under CEQA.

No historic-era resources or properties are listed on federal, state, or local inventories within the area, nor is the property eligible for listing in the National Register of Historic Places or California Register of Historical Resources, or is it eligible for City Landmark designation.

3.5.2 Impacts and Mitigation

3.5.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to cultural resources would be considered significant if the project would:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5;

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5; or

c) Disturb any human remains, including those interred outside of dedicated cemeteries.

3.5.2.2 *Project Impacts*

a) **Would the project cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?**

The site contains a building constructed circa 1962 that has been used for commercial/industrial purposes such as auto and body repair. Although the building is over 50 years old, it is not considered historically significant and lacks distinctive architectural features. .In addition, the archaeological literature review for the project site did not identify any historical resources near the project site. For these reasons, the project would result in less than significant impact. **Less Than Significant Impact**.

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

Based on the archaeological literature review prepared for the project, no archaeological sites have been identified in the project area. In this area of Santa Clara County, Native American

archaeological sites have been recorded adjacent to major creeks and tributaries, especially near confluences. The project site has a moderate to high potential for Native American resources, due to its proximity to the Guadalupe River.

Impact CR-1: The project may impact Native American archaeological deposits during excavation and construction activities.

Mitigation Measures

MM CR-1.1 **Preliminary Investigation:** Prior to the issuance of any grading or building permits, a qualified archaeologist who is trained in both local prehistoric and historical archaeology shall complete a subsurface exploration of the project site commensurate with proposed disturbances to sample the historically sensitive areas and sample the deeper native soils that could contain the remains of Native American resources. The exploration work shall be conducted by a qualified archaeologist after the demolition of the existing commercial vacant buildings and removal of the asphalt on the parking lot. To explore for potential Native American resources, deeper trenches shall be placed beyond the areas considered sensitive for historic-era resources and dug to a depth commensurate with proposed impacts, or until the soils and sediments are determined to be reliably culturally sterile. Archaeological monitoring may be necessary to examine deeper impacts. If any ground-disturbing activities are required for other environmental concerns or for potholing to identify previous utilities, utility removal, or any grading prior to subsurface archaeological explorations, an archaeological monitor shall be required.

The investigation program, including an archaeological monitoring plan, if necessary, shall be submitted to the Director of Planning, Building and Code Enforcement of the Director's designee for review and approval prior to issuance of any grading or building permits.

MM CR-1.2 **Treatment Plan:** Prior to the issuance of demolition and grading permits, the project applicant shall ensure implementation of the archaeological resources treatment plan by a qualified archaeologist. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. The Treatment Plan shall be prepared and submitted to the Director of PBCE or Director's designee. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.

- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading or building permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CR-1.3 **Evaluation and Documentation**. During all ground disturbance or construction related activities, the project proponent shall notify the Director of Planning, Building and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Informative Center (NWIC), and/or equivalent.

MM CR-1.4 **Technical Reporting.** Once all analyses and studies required by the treatment plan have been completed, a technical report summarizing the results of the field investigation and data recovery shall be prepared. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's Standards for Archaeological Documentation. The contents of the report shall be consistent with the protocol included in the treatment plan. The report shall be submitted to the City of San José Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of building permits. Once approved by the City, the final documentation shall be submitted to the Northwest Information Center (NWIC).

MM CR-1.5 **Maintain Confidentiality.** As required under Public Resources Code (PRC) Section 21084.3, the project applicant shall protect the confidentiality of any resources discovered on-site. The treatment plan and all pertinent data and results shall not be available for public review or distribution. The site of any reburial of Native American human remains shall be kept confidential and not be disclosed pursuant to the California Public Records Act, California Government Code Section 6254.10, 6254(r). The County Medical Examiner shall also withhold public disclosure of information related to such reburials pursuant to the exemptions set forth in California Government Code Section 6254(e).

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.

In addition to the mitigations and standard permit conditions identified above, as part of the development permit approval, the project will conform to the following standard permit conditions to avoid impacts associated with disturbance to buried archaeological resources during construction. With implementation of MM CR-1.1 to CR-1.6 and the standard permit conditions identified above, this would be a **Less Than Significant Impact with Mitigation Incorporated**.

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

Human remains may be encountered during construction activities, since in this area of Santa Clara County, Native American archaeological sites have been recorded adjacent to major creeks and tributaries, especially near confluences. The project site has a moderate to high potential for Native American human remains due to its proximity to the Guadalupe River.

Standard permit conditions identified below will avoid impacts associated with disturbance to human remains, including those interred outside of dedicated cemeteries.

Standard Permit Conditions

- 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.

Implementation of the standard permit conditions identified above would result in a **Less Than Significant Impact**.

Conclusion: All project-level impacts on cultural resources would be less than significant with mitigation and standard permit conditions, as identified above.

3.6 Energy

3.6.1 Environmental Setting

3.6.1.1 *Regulatory Framework*

Many federal, State, and local statutes and policies address energy conservation. At the federal level, energy standards set by the EPA apply to numerous consumer and commercial products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

State

California Renewable Energy Standards

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 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. As described previously, PG&E's (the electricity provider to the project site) 2015 electricity mix was 30 percent renewable.

In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities, requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Building Codes

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years. Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[20]

The California Green Building Standards Code (CalGreen) establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

[20] CEC. 2016 Building Energy Efficiency Standards for Residential and Nonresidential Buildings. 2013. Accessed September 20, 2018. http://www.energy.ca.gov/2015publications/CEC-400-2015-037/CEC-400-2015-037-CMF.pdf.

Local

Council Policy 6-32 Private Sector Green Building Policy

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED),[21] GreenPoint,[22] or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 12 below.

Table 12
Private Sector Green Building Policy Applicable Projects

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

Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/energy/green-building/private-sector-green-building

Municipal Code

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

Climate Smart San José

Climate Smart San José is a plan developed by the City to reduce air pollution, save water, and create a healthier community. The plan articulates how buildings, transportation/mobility, and citywide growth need to change in order to minimize impacts on the climate. The plan outlines strategies that City departments, related agencies, the private sector, and residents can take to reduce carbon emissions consistent with the Paris Climate Agreement. The plan recognizes the scaling of renewable energy,

[21] Created by the U.S. Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.
[22] Created by Build It Green, GreenPoint is a certification system that assigns points for green building measures based on a 381-point scale for multi-family developments and 341-point scale for single-family developments.

electrification and sharing of vehicle fleets, investments in public infrastructure, and the role of local jobs in contributing to sustainability. It includes detailed carbon-reducing commitments for the City, as well as timelines to deliver on those commitments.

In January 2010, the State of California adopted CalGreen, that establishes mandatory green building standards for all buildings in California. The code was subsequently updated in 2013. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

San José Reach Code Initiative for Building Efficiency

The City Council approved Ordinance No. 30311 in September 2019 to amend various sections of Title 24 of the City's Municipal Code to adopt provisions of the 2019 California Green Building Standards Code and California Building Energy Efficiency Standards with certain exceptions, modifications and additions which serve as a Reach Code to increase building efficiency, mandate solar readiness and increase requirements related to electric vehicle charging stations. The Reach Code went into effect January 1, 2020 and affects all new construction.

San José Clean Energy

San José Clean Energy (SJCE) is an electricity supplier operated by the City's Community Energy Department. Since launching in February 2019, SJCE has provided City businesses and residents with access to cheaper and cleaner energy sources. SJCE serves as an alternative to traditionally privatized energy sources by being a community-governed organization. Oversight for SJCE activities is provided by City Council in cooperation with a Community Advisory Commission.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating energy impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Energy Policies	
Policy MS-1.6	Recognize the interconnected nature of green building systems, and, in the implementation of Green Building Policies, give priority to green building options that provide environmental benefit by reducing water and/or energy use and solid waste.
Policy MS-2.1	Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.

Envision San José 2040 Relevant Energy Policies	
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-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy 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.
Policy MS-14.4	Implement the City's Green Building Policies (see Green Building Section) so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

3.6.1.2 *Existing Conditions*

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive 100 percent GHG-free electricity from entirely renewable resources. It is expected that the project would be enrolled in and receive energy from the SJCE program.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear

plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent; and two percent was unspecified.[23]

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

Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[24] SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and PG&E delivers it via their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[25] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[26]

Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[27] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.[28] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was

[23] PG&E, Delivering low-emission energy. Accessed September 19, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page
[24] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed March 15, 2019. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[25] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed August 27, 2019. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[26] California Energy Commission. "Natural Gas Consumption by County." Accessed February 21, 2019. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[27] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed February 11, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[28] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020.[29] [30]

3.6.2 Impacts and Mitigation

3.6.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to energy would be considered significant if the project would:

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

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

3.6.2.2 *Project Impacts*

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

The project would increase natural gas and electricity consumption for the proposed residential project. A discussion of the project's effect on energy use is presented below.

Construction Impacts

The anticipated construction schedule assumes that the project would be built out over a period of approximately 19 months. The project would require demolition, site preparation, minor grading, site construction, paving, and architectural coating. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., excavation, and grading), and the actual construction of the building. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The construction energy use has not been determined at this time.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is because equipment and fuel are not typically used wastefully due to the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project does, however, include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD Best Management Practices (BMPs) detailed as standard permit conditions in Section 3.3. Air Quality would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment. The project would also

[29] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed January 21, 2020. http://www.afdc.energy.gov/laws/eisa.
[30] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed January 21, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

recycle or salvage at least 30 percent of construction waste as part of its LEED certification (discussed further below).

With implementation of the BAAQMD BMPs, the short-term energy impacts associated with use of fuel or energy related to construction would be less than significant.

Operational Impacts

Operation of the proposed project would consume energy, in the form of electricity and natural gas, primarily for building heating and cooling, lighting, cooking, and water heating. Table 13 summarizes the estimated energy use of the proposed project.

Table 13
Estimated Annual Energy Use of Proposed Project (2030)

Proposed Project	Electricity Use (kWh)	Natural Gas Use (kBtu)
Apartments Mid-Rise	264,214	552,925
Enclosed Parking w/Elevator	116,116	--
Total	**380,330**	**552,925**

Source: Illingworth & Rodkin, Inc., CalEEMod Output, Almaden Villas – 1747 Almaden Road, April 2020.

The energy use increase is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. The project would incorporate a number of efficiency measures to minimize the consumption of energy, such as the project would be built to the 2019 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code. These measures include insulation and design provisions to minimize wasteful energy consumption, thereby improving the efficiency of the overall project. In addition, as described previously the project would be required to submit a LEED, GreenPoint, or Build-It-Green checklist as part of their development permit applications in accordance with Council Policy 6-32, which promotes practices to minimize the use and waste of energy, water, and other resources in the City of San José.

Transportation-Related Energy Use

The proposed project would result in an increase in traffic to the project site of approximately 298 net new daily traffic trips (see Appendix F). The total annual VMT for the project is approximately 108,770 assuming an average trip length of 9.98 per capita without mitigation (refer to Section 3.17, Transportation). Using the U.S. EPA's estimated average fuel economy of 25.1 mpg, the project would result in the consumption of approximately 43,248 gallons of gasoline per year.[31]

The project is in close proximity to major transit services. The nearest bus stops to the project site are located at the intersections of Bird Avenue/Minnesota Avenue (Local Route 56), Lincoln Avenue/Willow Glen Way (Local Route 64A), and Almaden Road/Curtner Avenue

[31] https://www.epa.gov/automotive-trends/highlights-automotive-trends-report

(Frequent Route 26). The Tamien LRT and Caltrain Stations are located between Lelong Street and Lick Avenue north of Alma Avenue. The Curtner LRT station is located south of Curtner Avenue, east of Canoas Garden Avenue, approximately 1.2 miles south of the project site. The LRT and Caltrain services provide access to the Diridon Transit Center, located approximately two miles north of the project site at Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. Proximity to transit would encourage the use of alternative methods of transportation to and from the site reducing transportation-related energy use.

The construction of the currently missing sidewalk along northbound Almaden Road between Willow Glen Way and 250 feet south of Willow Glen Way would provide a general continuous route between the project site and area south, including Malone Road. There are currently no existing bicycle facilities in the immediate area of the project site. However, there are bicycle facilities in the area surrounding the project site. Additionally, the City is proposing to install a bike path along Almaden Road. The San José Bike Plan 2020 identifies Class II bike lanes along Almaden Road, along its entire extent. Along the project frontage, buffered bike lanes are proposed along both sides of the roadway.

The combination of existing and planned bike facilities in the project vicinity would provide bicyclists with connections to other bicycle facilities in the City and encourage the use of alternative methods of transportation to and from the site, further reducing transportation-related energy use.

The proposed project would provide 20 long-term bicycle parking spaces and nine short-term bicycle parking spaces, consistent with the requirements of the City of San José Municipal Code. The inclusion of bicycle parking and proximity to transit would offer future residents alternative methods of transportation to and from the site. Based on the measures required for LEED Certification, the proposed project would comply with existing State energy standards.

Based on the discussion above, the project would not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **Less Than Significant Impact**.

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

Operation of the proposed project would consume energy for building heating and cooling, lighting, cooking, and water heating. Energy would also be consumed during vehicle trips generated by residential occupants. Although the project would increase the project site's energy use, the proposed development would be completed in compliance with the current energy efficiency standards set forth in Title 24, CALGreen, and the City's Municipal Code. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. **Less Than Significant Impact**.

Conclusion: All project-level impacts related to energy would be less than significant.

3.7 Geology and Soils

3.7.1 Environmental Setting

3.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Zoning Act was passed in 1972 with the intent to reduce the loss of life and property associated with surface rupture caused by active fault lines. The Alquist-Priolo Earthquake Zoning Act prohibits the placement of structures for human occupancy above active faults and sets minimum distances for construction away from the fault line. These fault lines are shown on Alquist-Priolo Maps, which are produced by the California Geological Survey.

Seismic Hazards Mapping Act

The 1990 Seismic Hazards Mapping Act (SHMA) directs the California Geological Survey to identify and map areas prone to various earthquake-related hazards, including liquefaction, landslides, and amplified ground shaking. The SHMA is intended to reduce the threat of seismic hazards to public health and to minimize the loss of life and property through identification and mitigation of seismic hazards. The State Geologist establishes regulatory zones (Zones of Required Investigation) and issues Seismic Hazard Zone Maps. These maps are distributed to all affected cities, counties, and state agencies for their use in planning and controlling construction and development.

California Building Code

The 2019 California Building Standards Code (CBC) was published on July 1, 2019 and took effect on January 1, 2020. The CBC is a compilation of three types of building criteria from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The CBC identifies acceptable design criteria for construction that addresses seismic design and load-bearing capacity, including specific requirements for seismic safety; excavation, foundation and retaining wall design, site demolition, excavation, and construction, and; drainage and erosion control.

Changes in the 2019 California Building Standards Code provide enhanced clarity and consistency in application. The basis for the majority of these changes resulted from California amendments to the 2018 model building codes. Some of the most significant change include the following:

- Aligns engineering requirements in the building code with major revisions to national standards for structural steel and masonry construction, minor revisions to standards for wood construction, and support and anchorage requirements of solar panels in accordance with industry standards;
- Clarifies requirements for testing and special inspection of selected building materials during construction; and
- Recognizes and clarifies design requirements for buildings within tsunami inundation zones.

Paleontological Resources Regulations – California Public Resources Code

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. California Public Resources Code (Section 5097.5) stipulates that the unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

Local

Municipal Code Chapter 17.10 – Geologic Hazard Regulations

Chapter 17.10 of the City's municipal code provides regulations for natural and artificial geologic hazards. Geologic hazard zones are defined as being any land in an area identified as very high, high, or moderate/high landslide susceptibility zones, being on a California earthquake fault zone map, or one of the City maps dated 1983 or 1985. Provisions made under this Chapter include prohibiting construction or grading of any property in a geologic hazard zone except in full compliance with Chapter 17.10, and granting any certificate holder, contractor, certified engineering geologist or consulting geotechnical and/or civil engineer the power to order immediate cessation of construction in the event a new geologic hazard is discovered.

Section 17.10.600 of this code states that "[n]o regional study which requires or contemplates any invasive testing or soil disturbance shall be conducted by an applicant unless and until the director approves a plan for the regional study." This section outlines various requirements for such a report, including requiring supervision of a certified engineering geologist or geotechnical engineer, incorporation of dust control measures to avoid air quality impacts from fugitive dust, requiring preparation of a cultural resources assessment to avoid cultural impacts, and other requirements.

Municipal Code Chapter 17.40 – Dangerous Building Code

Chapter 17.40 of the City's municipal code regulates dangerous buildings, defined as "any building or structure or portion thereof which creates an endangerment to the life, limb, health, property, safety or welfare of the occupants of the building or members of the public." Dangerous buildings are considered to be "public nuisances" and the City Manager has the power to restrict such buildings from use or occupancy and to initiate abatement procedures.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating geology and soils impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Geology and Soil Policies	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	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. [The City Geologist will issue a Geologic Clearance for approved geotechnical reports.]
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

3.7.1.2 *Existing Conditions*

The project property is an essentially flat lot with an elevation of approximately 128 feet above mean sea level (U.S. Geological Survey, San José East Quadrangle, California). Regionally, the topographic slope is to the north, towards San Francisco Bay. The project site is currently occupied by two one-story commercial buildings that would be demolished as part of the project.

The project site is located in Santa Clara Valley, an alluvial basin that lies between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast. Santa Clara Valley bedrock consists of Franciscan Complex and Cretaceous-age marine sediment. This bedrock is overlain by Santa Clara Formation sediments, which consist of a complex distribution of sand, silt, and clay lenses.

The project site is located within the seismically active San Francisco Bay Area. Santa Clara Valley is located between the active San Andreas Fault to the west, and the active Hayward and Calaveras faults to the east. Surface fault rupture tends to occur along existing fault traces. The California Geological Survey (formerly Division of Mines and Geology) has produced maps showing Alquist-Priolo Earthquake Fault Zones along faults that pose a potential surface faulting hazard. No Alquist-Priolo zones are mapped in the vicinity of the project.[32]

The site is located within an area zoned by the State of California as having potential for seismically induced liquefaction hazards (ibid). The site is also located within an area zoned in the Santa Clara County Geologic Hazard Zone maps as a Liquefaction Hazard Zone.[33] Liquefaction is a phenomenon in which the strength and stiffness of a soil is reduced by seismic shaking or other rapid loading. Liquefied soil can also settle.

3.7.2 Impacts and Mitigation

3.7.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to geology and soils would be considered significant if the project would:

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

   ai) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42;

   aii) Strong seismic ground shaking;

   aiii) Seismic-related ground failure, including liquefaction; or

   aiv) Landslides.

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

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

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

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

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

[32] California Geological Service, Earthquake Zones of Required Investigation San Jose West Quadrangle, 2002.
[33] Santa Clara County, Santa Clara County Geologic Hazard Zones, 2012.

3.7.2.2 *Project Impacts*

a) **Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:**

ai) **Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

The site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site. The risk of ground rupture within the site is considered low. The project site is not mapped within an Alquist-Priolo Earthquake Fault Zone. Furthermore, the project will be designed and developed in accordance with the California Building Code guidelines to avoid or minimize potential direct or indirect damage from seismic shaking on the project site as described below of the Standard Permit Conditions.

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.

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

- The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Implementation of the standard permit conditions identified above would result in a **Less Than Significant Impact.**

aii) **Strong seismic ground shaking?**

Due to its location in a seismically active region, the proposed building and associated structures would likely be subject to strong seismic ground shaking during their design life in the event of a major earthquake on any of the region's active faults. This could pose a risk to proposed structures and infrastructure. Earthquake faults in the region, specifically the San Andreas, Calaveras, and Hayward faults are capable of generating earthquakes larger than 7.0 in magnitude. Seismic impacts would be minimized by implementation of standard engineering and construction techniques in compliance with the requirements of the California and Uniform Building Codes for Seismic Zone 4. The project will be designed and constructed in accordance with a design-level geotechnical investigation as a standard permit condition discussed in a.i.) above. **Less Than Significant Impact**.

aiii) **Seismic-related ground failure, including liquefaction?**

As described above, the project site may be subject to strong ground shaking in the event of a major earthquake. The site is located within an area zoned by the State of California as having potential for seismically induced liquefaction hazards and within an area zoned in the Santa Clara County Geologic Hazard Zone maps as a Liquefaction Hazard Zone. Impacts associated with seismic and liquefaction hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as presented in the Standard Permit Conditions in a.i.) above. This would reduce any potentially significant geotechnical impacts to a less than significant level. **Less Than Significant Impact**.

aiv) **Landslides?**

The project site is essentially flat and would not be subject to landslides. **No Impact**.

b) **Would the project result in substantial soil erosion or the loss of topsoil?**

Development of the project would require the grading of 2,500 CY of cut and 1,200 CY of imported fill, which could result in a temporary increase in erosion. The project would implement the standard permit conditions identified in Section 3.10. Hydrology and Water Quality as well as the standard permit conditions discussed in explanation a.i. **Less Than Significant Impact**.

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

The project may contain soil and geologic hazards that could result in lateral spreading, subsidence, or liquefaction, which could damage proposed structures. Impacts associated with these soil and geotechnical hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as presented in the Standard Permit Conditions in a.i.) above. This would reduce any potentially significant geotechnical impacts to a less than significant level. **Less Than Significant Impact**.

d) **Would the project 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?**

The project may contain expansive soils, which could damage proposed structures on the site. Impacts associated with expansive soils or other soil hazards would be minimized by applying appropriate engineering and construction techniques. A geotechnical analysis would be prepared to provide recommendations to minimize these hazards as described in the standard permit condition for ai) above. This would reduce any potentially significant direct or indirect geotechnical impacts to a less than significant level. **Less Than Significant Impact**.

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

The project does not include any septic systems. The proposed project would tie into the City's existing sanitary sewer system. **No Impact**.

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

The project site is located in an area mapped as "high sensitivity at depth" in the General Plan EIR.[34] The project does not propose any major excavation (e.g., for a basement); therefore, it is unlikely to disturb paleontological resources. However, consistent with General Plan Policy ER-10.3, the following standard permit condition will be implemented by the project to avoid or minimize impacts to paleontological resources during construction. No other unique geological features are found on this infill site.

Standard Permit Condition

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the 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 Director of Planning or Director's designee.

Implementation of the standard permit conditions identified above would result in a **Less Than Significant Impact**.

Conclusion: All project-level impacts related to geology and soils would be less than significant with implementation of standard permit conditions.

[34] Figure 3.11-1 "Paleontologic Sensitivity of City of San Jose Geologic Units," from the *Draft Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan*, June 2011.

3.8 Greenhouse Gas Emissions

A greenhouse gas (GHG) evaluation was included as part of the air quality assessment prepared for the project by Illingworth & Rodkin, Inc. (April 2020, Revised September 2020). This report is contained in Appendix B.

3.8.1 Environmental Setting

3.8.1.1 *Regulatory Framework*

Federal

The Federal Clean Air Act (CAA), first passed in 1970, is the overarching federal-level law that, as of 2007 via the U.S. Supreme court decision in Massachusetts v. EPA, enables the U.S. EPA to provide regulations of key GHG emissions sources (mobile emissions), established a mandatory emissions reporting program for large stationary emitters, and implementation of vehicle fuel efficiency standards.

State

Assembly Bill 32 – California Global Warming Solutions Act

AB 32, the Global Warming Solutions Act of 2006, codifies the State of California's GHG emissions target by directing CARB to reduce the state's global warming emissions to 1990 levels by 2020. AB 32 was signed and passed into law by Governor Schwarzenegger on September 27, 2006. Since that time, the CARB, the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), and the Building Standards Commission have all been developing regulations that will help meet the goals of AB 32 and Executive Order S-3-05.[35]

A Scoping Plan for AB 32 was adopted by CARB in December 2008. It contains the State of California's main strategies to reduce GHGs from business as usual (BAU) emissions projected in 2020 back down to 1990 levels. BAU is the projected emissions in 2020, including increases in emissions caused by growth, without any GHG reduction measures. The Scoping Plan has a range of GHG reduction actions, including direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as a cap-and-trade system. It required CARB and other state agencies to develop and adopt regulations and other initiatives reducing GHGs by 2012.

As directed by AB 32, CARB has also approved a statewide GHG emissions limit. On December 6, 2007, CARB staff resolved an amount of 427 MMT of CO_2e as the total statewide GHG 1990 emissions level and 2020 emissions limit. The limit is a cumulative statewide limit, not a sector-or facility-specific limit. CARB updated the future 2020 BAU annual emissions forecast, in light of the economic downturn, to 545 MMT of CO_2e. Two GHG emissions reduction measures currently enacted that were not previously included in the 2008 Scoping Plan baseline inventory were included, further reducing the baseline inventory to 507 MMT of CO_2e. Thus, an estimated reduction of 80 MMT of CO_2e is necessary to reduce statewide emissions to meet the AB 32 target by 2020.

[35] Note that AB 197 was adopted in September 2016 to provide more legislative oversight of CARB.

CARB prepared an updated Scoping Plan which was released in 2017. The 2017 Scoping Plan identifies ways for California to reach the statewide 2030 climate target and next steps for reaching the 2050 target goal.

Senate Bill 1368

Senate Bill (SB) 1368 is the companion bill of AB 32 and was signed by Governor Schwarzenegger in September 2006. SB 1368 required the CPUC to establish a greenhouse gas emission performance standard. Therefore, on January 25, 2007, the CPUC adopted an interim GHG Emissions Performance Standard in an effort to help mitigate climate change. The Emissions Performance Standard is a facility-based emissions standard requiring that all new long-term commitments for baseload generation to serve California consumers be with power plants that have emissions no greater than a combined cycle gas turbine plant. That level is established at 1,100 pounds of CO_2 per megawatt-hour. "New long-term commitment" refers to new plant investments (new construction), new or renewal contracts with a term of five years or more, or major investments by the utility in its existing baseload power plants. In addition, the CEC established a similar standard for local publicly owned utilities that cannot exceed the greenhouse gas emission rate from a baseload combined-cycle natural gas fired plant. On July 29, 2007, the Office of Administrative Law disapproved the CEC's proposed Greenhouse Gases Emission Performance Standard rulemaking action and subsequently, the CEC revised the proposed regulations. SB 1368 further requires that all electricity provided to California, including imported electricity, must be generated from plants that meet the standards set by the CPUC and CEC.

Senate Bill 32 – California Global Warming Solutions Act of 2006

In September 2015, the California Legislature passed SB 350 (de Leon 2015), which increases the State's RPS for content of electrical generation from the 33 percent target for 2020 to a 50 percent renewables target by 2030.

Senate Bill 375 – California's Regional Transportation and Land Use Planning Efforts

SB 375, signed in August 2008, requires sustainable community strategies (SCS) to be included in regional transportation plans (RTPs) to reduce emissions of GHGs. The MTC and ABAG adopted an SCS in July 2013 that meets GHG reduction targets. The Plan Bay Area is the SCS document for the Bay Area, which is a long-range plan that addresses climate protection, housing, healthy and safe communities, open space and agricultural preservation, equitable access, economic vitality, and transportation system effectiveness within the San Francisco Bay region (MTC 2013). The document is updated every four years.

Executive Order S-03-05

On June 1, 2005 Governor Schwarzenegger signed Executive Order S-03-05, the purpose of which was to implement requirements for the California Environmental Protection Agency (Cal EPA) to provide ongoing reporting on a biennial basis to the State Legislature and Governor's Office on how global warming is affecting the State. Required areas of impact reporting include public health, water supply, agriculture, coastline, and forestry. The Cal EPA secretary is required to prepare and report on ongoing and upcoming mitigation designed to counteract these impacts.

Executive Order B-30-15

On April 15, 2015 Governor Brown signed Executive Order B-30-15, the purpose of which is to establish a GHG reduction of 40 percent below 1990 levels by 2030. The Executive Order is intended to help the State work towards a further emissions reduction target of 80 percent below 1990 levels by the year 2050. The order directed state agencies to prepare for climate change impacts through prioritization of adaptation actions to reduce GHG emissions, preparation for uncertain climate impacts through implementation of flexible approaches, protection of vulnerable populations, and prioritization of natural infrastructure approaches.

Executive Order B-55-18 and SB 100 – 100 Percent Clean Energy Act of 2018

On September 10, 2018 Governor Brown signed both SB 100 – 100 Percent Clean Energy Act of 2018 and Executive Order B-55-18 to Achieve Carbon Neutrality. SB 100 sets California on course to achieving carbon-free emissions from the electric power production sector by 2045. SB100 also increases the required emissions reduction generated by retail sales to 60% by 2030, an increase in 10% compared to previous goals. B-55-18 establishes a new goal of achieving statewide "carbon neutrality as early as possible and no later than 2045, and to achieve and maintain net negative emissions thereafter."

Regional and Local

Bay Area Air Quality Management District

The BAAQMD is primarily responsible for assuring that the federal and state ambient air quality standards for criteria pollutants are attained and maintained in the Bay Area. The BAAQMD developed CEQA guidelines to assist lead agencies in the BAAQMD's jurisdiction with evaluation of air quality impacts of proposed projects that may potentially generate harmful air pollutants and emissions. The BAAQMD's May 2017 CEQA Air Quality Guidelines updated the 2010 CEQA Air Quality Guidelines, addressing the California Supreme Court's 2015 opinion in the *California Building Industry Association vs. Bay Area Air Quality Management District* court case.

In an effort to attain and maintain federal and state ambient air quality standards, the BAAQMD establishes thresholds of significance for construction and operational period emissions for criteria pollutants and their precursors.

2017 Bay Area Clean Air Plan

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

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.

- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

City of San José Municipal Code

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

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

Council Policy 6-32 Private Sector Green Building Policy

In October 2008, the City Council adopted the Council Policy 6-32 "Private Sector Green Building Policy", which identifies baseline green building standards for new private 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.

City of San José 2030 Greenhouse Gas Reduction Strategy

On 12/15/15, the San José City Council certified a Supplemental Program Environmental Impact Report to the Envision San José 2040 Final Program Environmental Impact Report and re-adopted the City's GHG Reduction Strategy in the General Plan. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and standards for "qualified plans" as set forth by BAAQMD. Projects that conform to the General Plan Land Use/Transportation Diagram and supporting policies are considered consistent with the City's GHG Reduction Strategy.

The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: 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. Voluntary measures can be incorporated as mitigation measures for proposed projects, at the City's discretion.

The Greenhouse Gas Reduction Strategy was updated for 2030. The 2030 GHG Reduction Strategy was adopted and the EIR Addendum were certified by the City Council on 11/17/2020. The 2030 GHG Reduction Strategy went into effect on 12/17/2020.

The 2030 GHG Reduction Strategy outlines the actions the City will undertake to achieve its proportional share of State GHG emission reductions for the interim target year 2030. The 2030 GHG Reduction Strategy presents the City's comprehensive path to reduce GHG emissions to achieve the 2030 reduction target, based on SB 32, BAAQMD, and OPR requirements. Additionally, the 2030 GHG Reduction Strategy leverages other important City plans and policies; including the General Plan, Climate Smart San José, and the City Municipal Code in identifying reductions strategies that achieve the City's target. CEQA Guidelines Section 15183.5 allows for public agencies to analyze and mitigate GHG emissions as part of a larger plan for the reduction of GHGs. Accordingly, the City of San José's

2030 GHG Reduction Strategy represents San José's qualified climate action plan in compliance with CEQA.

As described in the 2030 GHG Reduction Strategy, the GHG reductions will occur through a combination of City initiatives in various plans and policies to provide reductions from both existing and new developments. A GHG Reduction Strategy Compliance Checklist (Compliance Checklist) was developed that applies to proposed discretionary projects that require CEQA review. Therefore, the Compliance Checklist is a critical implementation tool in the City's overall strategy to reduce GHG emissions. Implementation of applicable reduction actions in new development projects will help the City achieve incremental reductions toward its target. Per the 2030 GHG Reduction Strategy, the City will monitor strategy implementation and make updates, as necessary, to maintain an appropriate trajectory to the 2030 GHG target. Specifically, the purpose of the checklist is to:

- Implement GHG reduction strategies from the 2030 GHGRS to new development projects.
- Provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to CEQA.

Climate Smart San José

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

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

The CEC updates the California Building Energy Efficiency Standards every three years, in alignment with the California Code of regulations. Title 24 Parts 6 and 11 of the California Building Energy Efficiency Standards and CalGreen address the need for regulations to improve energy efficiency and combat climate change. The 2019 CAL Green standards include some substantial changes intended to increase the energy efficiency of buildings. For example, the code encourages the installation of solar and heat pump water heaters in low-rise residential buildings. The 2019 California Code went before City Council in October 2019 for approval, with an effective date of January 1, 2020. As part of this action, the City adopted a "reach code" that requires development projects to exceed the minimum Building Energy Efficiency requirements.[36] The City's reach code applies only to new residential and non-residential construction in San José. It incentivizes all-electric construction, requires increased energy efficiency and electrification-readiness for those choosing to maintain the presence of natural gas. The code requires that non-residential construction include solar readiness. It also requires additional EV charging readiness and/or electric vehicle service equipment (EVSE) installation for all development types.

[36] City of San José Transportation and Environmental Committee, *Building Reach Code for New Construction Memorandum,* August 2019.

General Plan

In addition to the above, policies in the General Plan have been adopted for the purpose of avoiding or mitigating greenhouse gas emissions impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Greenhouse Gas Reduction Policies	
Policy CD-3.2	Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements, to facilitate interaction between community members, and to strengthen the sense of community.
Policy MS-1.2	Continually increase the number and proportion of buildings within San José that make use of green building practices by incorporating those practices into both new construction and retrofit of existing structures.
Policy MS-2.3	Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.
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.
Policy LU-5.4	Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.
Policy TR-2.18	Provide bicycle storage facilities as identified in the Bicycle Master Plan.

3.8.1.2 *Existing Conditions*

Various gases in the earth's atmosphere, classified as atmospheric GHGs, play a critical role in determining the earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. 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 (CO_2), methane (CH_4), ozone (O_3), water vapor, nitrous oxide (N_2O), and

chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. Climate change is a cumulative effect from local, regional, and global GHG emission contributions. According to the EPA on a Global scale, CARB on a state scale, and BAAQMD on a County scale, the transportation sector is the largest emitter of GHG emissions, followed by electricity generation and the industrial sector.[37],[38] ,[39] The City of San José also has the transportation sector as the largest emitter of GHG emission, but followed by residential and commercial development.[40]

The U.S. EPA reported that in 2018, total gross nationwide GHG emissions were 6,676.6 million metric tons (MMT) carbon dioxide equivalent (CO_2e).[41] These emissions were lower than peak levels of 7,416 MMT that were emitted in 2007. CARB updates the statewide GHG emission inventory on an annual basis where the latest inventory includes 2000 through 2017 emissions.[42] In 2017, GHG emissions from statewide emitting activities were 424 MMT. The 2017 emissions have decreased by 14 percent since peak levels in 2004 and are 7 MMT below the 1990 emissions level and the State's 2020 GHG limit. Per capita GHG emissions in California have dropped from a 2001 peak of 14.1 MT per person to 10.7 MT per person in 2017. The most recent Bay Area emission inventory was computed for the year 2011.[43] The Bay Area GHG emission were 87 MMT. As a point of comparison, statewide emissions were about 444 MMT in 2011. According to San José's GHGRS, the City's emissions were 5.71 MMT.

The project site is developed with two buildings. The existing GHG emissions at the site would be from vehicles traveling to and from the site, as well as energy usage from electricity and natural gas.

3.8.2 Impacts and Mitigation

3.8.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to greenhouse gas emissions would be considered significant if the project would:

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

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

[37] EPA, https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks
[38] CARB, https://ww2.arb.ca.gov/ghg-inventory-data
[39] BAAQMD. Available at: https://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/Emission%20Inventory/BY2011_GHGSummary.ashx?la=en&la=en
[40] City of San José, 2011. *Greenhouse Gas Reduction Strategy for the City of San José*. June (updated December 2015). http://www.sanjoseca.gov/documentcenter/view/9388
[41] United States Environmental Protection Agency, 2020. *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2018*. April. Web: https://www.epa.gov/sites/production/files/2020-04/documents/us-ghg-inventory-2020-main-text.pdf
[42] CARB. 2019. *2019 Edition, California Greenhouse Gas Emission Inventory: 2000 – 2017*. Web: https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000_2017/ghg_inventory_trends_00-17.pdf
[43] BAAQMD. 2015. *Bay Area Emissions Inventory Summary Report: Greenhouse Gases Base Year 2011*. January. Web: http://www.baaqmd.gov/~/media/files/planning-and-research/emission-inventory/by2011_ghgsummary.pdf accessed Nov. 26, 2019.

3.8.2.2 *Project Impacts*

Baseline Conditions - COVID

This air quality/GHG evaluation was prepared using information reflective of pre-COVID conditions and prior to the enaction of shelter-in-place orders. The only input to the air quality analysis that could be affected by current COVID conditions is traffic. The air quality analysis predicted emissions of air pollutants, including GHGs, from traffic using project trip generation rates. These traffic generation rates are based on pre-COVID conditions and would be higher than during-COVID conditions where occupants and users of the project would presumably generate fewer trips. This would result in lower emissions during-COVID conditions. Air pollutant emissions are compared to thresholds to judge the impacts. Thus, the air quality/GHG impacts represent conservative evaluations.

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

CARB previously recommended use of URBEMIS for predicting construction and operational emissions. In 2012 URBEMIS was considered outdated and was replaced by CalEEMod Version 2016.3.2. In the 2017 update to the CEQA Air Quality Guidelines, BAAQMD identifies screening criteria for the sizes of land use projects that could result in significant GHG emissions. The GHG screening criteria was developed from default assumptions used by URBEMIS. If a project is below the BAAQMD screening sizes, then the project would not exceed the 1,100 MT of CO2e/yr GHG threshold of significance. The project also would be considered less than significant if it demonstrates that it is consistent with the City's 2030 GHG Reduction Strategy.

GHG emissions associated with development of the project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. Long-term operational emissions would also be generated from vehicular traffic, energy and water use, and solid waste disposal. The operational GHG screening size for "condo/townhouse" is 78 dwelling units. The project proposes 62 residential condominium units.

The project is subject to the GHG reduction strategies identified in the City's 2030 GHG Reduction Strategy Compliance Checklist (see Appendix G). The project would implement and comply with all relevant GHG reduction measures as determined by the City. Since the project is below the screening size and plans to apply 2030 GHG Reduction Strategy measures, the GHG emissions of the project would be below the BAAQMD significance threshold for GHG. GHG reduction strategies to be incorporated into the project include the following (see also Appendix G):

- Implementation of green building measures through construction techniques and architectural design,
- Installation of solar panels on the roof,
- Incorporation of electric vehicle charging stations, and
- Integration of water and waste reduction features.

The project would not generate GHG emissions, either directly or indirectly, that would have a significant impact on the environment.

GHG emissions associated with construction were computed to be 226 MT of CO_2e for the total construction period. These consist of emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions, although BAAQMD recommends quantifying emissions and disclosing GHG emissions during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. **Less Than Significant Impact**.

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

The City's 2030 GHG Reduction Strategy Compliance Checklist has been completed for the project, as presented in Appendix G. The project would be consistent with the existing General Plan land use diagram, would be required to provide pedestrian and bicycle facilities consistent with the Municipal Code, and would comply with green building ordinances and all applicable energy efficiency measures. Therefore, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs, since the project would comply with the City's 2030 GHG Reduction Strategy. **Less Than Significant Impact**.

Conclusion: All project-level impacts related to greenhouse gas emissions would be less than significant.

3.9 Hazards and Hazardous Materials

A Phase I Environmental Site Assessment and Soil Characterization Report were performed for the project site by ACC Environmental Consultants (ACC) in December and January of 2018. A Soil Management Plan (SMP) was prepared by ACC for the project site in January 2021. These reports are contained in Appendix D.

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Federal

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980 and is administered by the U.S. EPA. This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified.

Resources Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) is a Federal law passed by Congress in 1976 to address the increasing problems from the nation's growing volume of municipal and industrial waste. RCRA creates the framework for the proper management of hazardous and non-hazardous solid waste and is administered by the U.S. EPA. RCRA protects communities and resource conservation by enabling the EPA to develop regulations, guidance, and policies that ensure the safe management and cleanup of solid and hazardous waste, and programs that encourage source reduction and beneficial reuse. The term RCRA is often used interchangeably to refer to the law, regulations, and EPA policy and guidance.

State

California Department of Toxic Substances Control

The California Department of Toxic Substances Control (DTSC) is a State agency that protects State citizens and the environment from exposure to hazardous wastes by enforcing hazardous waste laws and regulations. DTSC enforces action against violators; oversees cleanup of hazardous wastes on contaminated properties; makes decisions on permit applications from companies that want to store, treat or dispose of hazardous waste; and protects consumers against toxic ingredients in everyday products.

Cortese List: Section 65692.5(a)

California Code of Regulations Section 65962.5(a) requires that the DTSC compile and update an annual list, known as the Cortese List, of all hazardous waste facilities subject to corrective action,

pursuant to Section 25187.5 of the Health and Safety Code. Facilities are added to the Cortese List are those that have failed to comply with a posted date for taking corrective action for an existing hazard or because DTSC determined that immediate corrective action is necessary to abate an imminent or substantial endangerment.

California Code of Regulations, Title 8 Section 1529 – Asbestos

California Code of Regulations, Title 8, Section 1529 regulates asbestos exposure in all construction work, including structure demolition, removal of asbestos-containing materials, activities involving construction or alteration of existing structures that contain asbestos, installation of asbestos-containing products, emergency cleanup, and other activities. Section 1529 regulates permissible exposure limits for individual employees, standards for demarcation of regulated asbestos work areas, and safety protocol and equipment.

California Code of Regulations, Title 8 Section 1532.1 – Lead

California Code of Regulations, Title 8, Section 1532.1 applies to all construction work where an employee may be occupationally exposed to lead. As defined in this section, an employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air ($50\mu g/m^3$) averaged over an 8-hour period. Employers are required to identify hazards at existing job sites and provide workers with training and sanitation stations for decontamination. Compliance is regulated by the California Occupational Safety Health Program (CAL/OSHA).

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) program is designed to help prevent the accidental release of substances that pose harm to public health and the environment. CalARP also provides guidance for minimizing damage from spills and requires businesses to develop Risk Management Plans (RMPs) if they handle a certain amount of a regulated substance. RMPs are detailed engineering documents that analyze the potential accident factors and identify mitigation for rapid implementation to reduce accident potential and address any accidental releases. The CalARP program is implemented by Unified Program Agencies (UPAs) at the local government levels. UPAs work directly with businesses to review and approve RMPs, conduct inspections, and provide public-facing data.

California State Water Resources Control Board

The California State Water Resources Control Board (SWRCB) and its nine regional boards are responsible for preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses. Through the 1969 Porter-Cologne Act, the State and Regional Water Boards have been entrusted with broad duties and powers to preserve and enhance all beneficial uses of the state's water resources.

Local

Regional Water Quality Control Board

The San Francisco Bay Regional Water Quality Control Board (RWQCB) is the lead agency responsible for identifying, monitoring and remediating leaking underground storage tanks in the Bay

Area. Local jurisdictions may take the lead agency role as a Local Oversight Program (LOP) entity, implementing State as well as local policies.

Santa Clara Department of Environmental Health

The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA) for the City. The CalARP Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond property boundaries. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. An RMP is required for such facilities. The intents of the RMP are to provide basic information that may be used by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and state Community Right-to-Know laws.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hazardous materials impacts from development projects. All future development allowed by the proposed land use designation would be subject to the hazardous materials policies in the General Plan presented below.

Envision San José 2040 Relevant Hazardous Material Policies	
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-6.8	The City will use information on file with the County of Santa Clara Department of Environmental Health under the California Accidental Release Prevention (CalARP) Program as part of accepted Risk Management Plans to determine whether new residential, recreational, school, day care, church, hospital, seniors or medical facility developments could be exposed to substantial hazards from accidental release of airborne toxic materials from CalARP facilities.
Policy EC-6.9	Adopt City guidelines for assessing possible land use compatibility and safety impacts associated with the location of sensitive uses near businesses or institutional facilities that use or store substantial quantities of hazardous materials by June 2011. The City will only approve new development with sensitive populations near sites containing hazardous materials such as toxic gases when feasible mitigation is included in the projects.
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.

Envision San José 2040 Relevant Hazardous Material Policies	
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	In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.
Action 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.
Action 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.

3.9.1.2 *Existing Conditions*

ACC prepared a Phase I Environmental Site Assessment for the project site dated December 5, 2018. Agricultural practices were conducted at the property from at least 1939 to 1956. The site was occupied by various auto body and auto repair shops from approximately 1963 to 2004. The 2018 Phase I ESA did not reveal specific areas of concern (i.e., underground and/or aboveground tanks used to store fuels or other chemicals, oil-water separators, or indications of unauthorized chemical releases).

Soil investigations conducted by ACC on January 24, 2018 and December 30, 2020 indicate that the property is covered with approximately six inches of base rock that was imported during construction of the existing asphalt parking lot. The base rock contains serpentine and naturally occurring asbestos (NOA) at a concentration of 2.5%. Nickel, arsenic, and cobalt were additionally detected at

concentrations exceeding the current corresponding San Francisco Bay RWQCB direct-exposure human health risk levels (HHRLs) for residential properties.[44] Elevated concentrations of naturally occurring heavy metals in serpentine is common, and ACC concluded that elevated metal concentrations in the base rock are not indicative of an unauthorized release of contamination. However, base rock would require disposal off-site in accordance with the BAAQMD's asbestos regulations. Note that the base rock would be profiled as nonhazardous waste if hauled off-site but must be disposed of at a landfill that accepts soil with naturally occurring asbestos, addressed further in the SMP. Base rock was not observed beneath the existing structure(s).

ACC observed approximately six inches of imported sand beneath the existing structure. Three samples of the sand were collected and analyzed. Based on the analytical results, the sand beneath the structure is suitable for reuse on-site or would be profiled as nonhazardous waste if hauled off-site.

Arsenic, lead, and mercury were detected in shallow soil beneath the base rock and beneath the imported sand underneath the existing structure at concentrations exceeding corresponding residential RWQCB HHRLs. Lead-containing pesticides and mercury-containing pesticides were historically applied to orchards. Elevated lead and mercury concentrations in shallow soils at the site are attributed to historical agricultural practices. Concentrations of these metals decrease quickly with depth and significant impacts appear limited to the first approximate six inches beneath the base rock (and beneath the imported sand beneath the structure).

Arsenic was detected up to a concentration of nine milligrams per kilogram (mg/kg) in soils, which exceeds the corresponding residential HHRL but is within naturally occurring background concentrations and is not indicative of contamination. Per the San Francisco Bay RWQCB, naturally occurring background concentrations of arsenic are up to 11 mg/kg in soils in the San Francisco Bay area.

Cobalt was detected up to a concentration of 27 mg/kg in shallow soils, which slightly exceeds the residential HHRL of 23 mg/kg. However, cobalt concentrations do not significantly decrease with depth and are naturally occurring based on deeper samples analyzed for cobalt.[45]

Total petroleum hydrocarbons, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and organochlorine pesticides (OCPs) were detected at concentrations less than corresponding residential RWQCB HHRLs and are not considered chemicals of concern. PCBs were not detected.

ACC has prepared a SMP for the project that includes measures to avoid adverse effects during site development related to hazardous materials contamination.

[44] San Francisco Bay RWQCB Environmental Screening Levels, 2019.
[45] Per the San Francisco Bay RWQCB document Users Guide: Derivation and Application of Environmental Screening Levels (ESLs) Interim Final 2019 (Revision 1), "It is not appropriate to require cleanup to concentrations below the background concentrations."

3.9.2 Impacts and Mitigation

3.9.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to hazards and hazardous materials would be considered significant if the project would:

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

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

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

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

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

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

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

3.9.2.2 *Project Impacts*

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

The proposed residential use operations would not involve the routine transport, use, or disposal of hazardous materials. Small quantities of miscellaneous household cleaning supplies and other chemicals may be used on the site. These materials would be stored and used in accordance with the manufacturer's specifications. **Less Than Significant Impact**.

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

Based on the site investigations by ACC, arsenic, lead, and mercury were detected in shallow soil beneath the base rock and beneath the imported sand underneath the existing structure at the project site in concentrations exceeding corresponding residential RWQCB HHRLs. Lead-containing pesticides and mercury-containing pesticides were historically applied to orchards. Elevated lead and mercury concentrations in shallow soils at the site are attributed to historical agricultural practices. Concentrations of these metals decrease quickly with depth and significant impacts appear limited to the first approximate six inches beneath the base rock

(and beneath the imported sand beneath the structure). An SMP has been developed for the project that would be implemented to avoid impacts from hazardous materials contamination, as identified in the mitigation below. An SMP has been prepared for the project that includes measures to avoid adverse effects during site development related to hazardous materials contamination, including the following:

- Measures to minimize construction worker exposure to impacted soils during site disturbance;
- Measures to confirm that on-site soils do not present a health risk to future occupants based on San Francisco Bay RWQCB residential screening levels for soil;
- Protocols for handling and disposing of soil during construction; and
- Dust suppression methods to be implemented during soil disturbance.

Impact HAZ-1: Hazardous materials may be present in onsite soils, which could be disturbed during project development. Release of these hazardous materials could result in exposure during construction or occupancy.

Mitigation Measures

MM HAZ-1 Prior to issuance of any grading permits, the applicant shall submit the Soil Management Plan (ACC, January 2021) to the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Municipal Environmental Compliance Officer of the Environmental Services Department for final review. The SMP contains measures to minimize construction worker exposure to impacted soils, confirm that on-site soils do not present a health risk to future occupants based on San Francisco Bay RWQCB residential screening levels for soil, identify protocols for handling and disposing of soil during construction, and dust suppression methods during soil disturbance.

Building Demolition

The existing building to be demolished may contain asbestos containing materials (ACMs) and/or lead-based paint. Incorporation of standard permit conditions identified below will assure that ACMs or lead-based paint are not released during demolition activities.

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 the on-site building(s) 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.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

- Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.

    - Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
    - During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
    - Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

With the implementation of MM HAZ-1 and the standard permit conditions identified above, this represents a **Less Than Significant Impact with Mitigation**.

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

The project site is located within ¼ mile of the Hammer Galarza Elementary School. The proposed residential use would not routinely emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste in sufficient quantities to pose a health risk to nearby schools. See also b) above, which identifies mitigation and standard permit conditions to ensure the remediation of the existing hazardous materials conditions at the site and that contaminated materials are properly handled to avoid chemical releases into the environment during construction. **Less Than Significant Impact**.

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

The project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., Cortese List). See also b) above, which identifies a mitigation measure and standard permit conditions for remediating existing hazardous materials conditions at the site. **Less Than Significant Impact**.

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

The project site is located approximately four miles south of the Norman Y. Mineta San José International Airport. The project site is not located within an airport land use plan or within two miles of a public airport or public use airport and would not result in a safety hazard to airport operations. **No Impact**.

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

The proposed residential use would not interfere with any adopted emergency or evacuation plans. The project would not create any barriers to emergency or other vehicle movement in the area and would be designed to incorporate all Fire Code requirements. **Less Than Significant Impact**.

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

The project would not expose people or structures, either directly or indirectly, to risk of loss, injury or death from wildland fires since it is located in a highly urbanized area that is not prone to such events. See also Section 3.20. Wildfire for further discussion of wildfire impacts, which were determined to result in no impact given the site location and low wildfire hazard. **No Impact**.

Conclusion: All project-level impacts related to hazards and hazardous materials would be less than significant with mitigation, as described above, and implementation of standard permit conditions.

3.10 Hydrology and Water Quality

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

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

Federal and State

Clean Water Act – Section 404

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States (waters of the U.S.) and regulating quality standards for surface waters. Its goals are to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Under the CWA, the US EPA has implemented pollution control programs and established water quality standards, and together with the U.S. Army Corps of Engineers, regulates discharge of dredged and fill material into waters of the U.S. under Section 404 of the CWA and its implementing regulations. Waters of the U.S. are defined broadly as waters susceptible to use in commerce (including waters subject to tides, interstate waters, and interstate wetlands) and other waters.

National Flood Insurance Program

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

Porter-Cologne Water Quality Act

The Porter-Cologne Act delegates authority to the SWRCB to establish regional water quality control boards. The San Francisco Bay Area RWQCB has authority to use planning, permitting, and enforcement to protect beneficial uses of water resources in the project region. Under the Porter-Cologne Water Quality Control Act (California Water Code Sections 13000-14290), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters, including projects that do not require a federal permit through the USACE. To meet RWQCB 401 Certification standards, all hydrologic issues related to a project must be addressed, including the following:

- Wetlands
- Watershed hydrograph modification

- Proposed creek or riverine related modifications
- Long-term post-construction water quality

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 BMPs to protect water quality until the site is stabilized. The project would require CGP coverage based on area of land disturbed (1.23 acres).

Statewide Construction General Permit

Any construction or demolition activity that results in land disturbance equal to or greater than one acre or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres must comply with the CGP, administered by the SWRCB. The CGP requires the installation and maintenance of BMPs to protect water quality until the site is stabilized.

The project would not require Construction General Permit coverage based on area of land disturbed, which is less than one acre.

Regional and Local

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Stormwater Permit

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. The City of San José is required to operate under the MRP to discharge stormwater from the City's storm drain system to surface waters. The MRP mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:

- Projects that create or replace 10,000 square feet or more of impervious surface.
- Special Land Use Categories 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. These include site design features to reduce the amount of runoff requiring treatment and maintain or restore the site's natural hydrologic functions, source control measures to prevent stormwater from pollution, and stormwater treatment features to clean polluted stormwater runoff prior to discharge into the storm drain system. The MRP requires that stormwater treatment measures are properly installed, operated, and maintained.

The Municipal Regional Permit 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 one acre or more of impervious surface, create an increase in total impervious surface from pre-project conditions, and are located in a subwatershed 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. The project site is located in an area identified as a subwatershed greater than or equal to 65% impervious and would not create an acre or more of impervious surface or create an increase in total impervious surface from pre-project conditions. Based on its size and subwatershed location, the project would not be required to comply with the hydromodification requirements of Provision C.3 of the Municipal Regional Permit or City Council Policy 8-14 Post-Construction Hydromodification Management.

All development projects, whether subject to the CGP or not, 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 30), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

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

The City of San José's Policy 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy 6-29 requires all new development and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also establishes specific design standards for post-construction TCM for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Green Stormwater Infrastructure Plan

The City of San José has developed a Green Stormwater Infrastructure Plan (GSI Plan) to lay out the approach, strategies, targets, and tasks needed to transition traditional "gray" infrastructure to include green stormwater infrastructure over the long term and to implement and institutionalize the concepts of GSI into standard municipal engineering, construction, and maintenance practices. The GSI Plan is intended to serve as an implementation guide for reducing the adverse water quality impacts of urbanization and urban runoff on receiving waters over the long term, and a reporting tool to provide reasonable assurance that specific pollutant reductions from discharges to local creeks and San Francisco Bay will be met. The GSI Plan is required by the City's MRP for the discharge of stormwater runoff from the City's storm drain system.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Hydrology and Water Quality Policies	
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

3.10.1.2 *Existing Conditions*

The project site is essentially flat and lies at an elevation of about 128 feet above mean sea level (USGS San José East Quadrangle). The site is currently occupied by two commercial buildings. The existing storm drainage system on the site directs runoff to an existing 24-inch reinforced concrete pipe (RCP) storm drain in Almaden Road.

The project site is located 360 feet east of the Guadalupe River. The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone D (Panel 06085C0381H, effective 5/18/2009). Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D. The Guadalupe River, west of the site, is located in Zone A; however, the project boundaries are located outside the 100-year floodplain. Zone A is defined as an area subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies.

A February 2001 subsurface investigation at a property north of the site revealed depth to groundwater between 33 and 35 feet below ground surface (bgs).[46] Subsurface conditions are anticipated to be similar at the project site. Groundwater gradient is estimated to flow predominately to the north-northwest.

[46] Summary Report for Underground Storage Tank Removal and Contaminated Soil Overexcavation for the property adjacent to the north, dated August 28, 2002.

3.10.2 Impacts and Mitigation

3.10.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to hydrology and water quality would be considered significant if the project would:

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

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

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

   ci) Result in substantial erosion or siltation on- or off-site;

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

   ciii) 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

   civ) Impede or redirect flood flows;

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

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

3.10.2.2 *Project Impacts*

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

The project is located in an urban environment and operation of the residential uses would not utilize materials that would significantly harm the water quality in the area. Furthermore, the project would comply with applicable regulations and laws, as discussed in the regulatory framework above, to ensure proper discharge into the City's stormwater and sanitary infrastructure, would not violate any water quality standards or waste discharge requirements, or degrade surface or groundwater quality as described below under item b). **Less Than Significant Impact**.

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

The depth of groundwater in the site vicinity is expected to be 33 and 35 feet below ground surface. The project is located within the Santa Clara Plain Recharge Area of the Santa Clara

Subbasin.[47] However, the project site is currently developed and the project does not propose major excavation (e.g., a subsurface parking garage) that would access groundwater. Thus, it is not anticipated that the project would decrease groundwater supplies or interfere substantially with groundwater recharge (such that the project may impede sustainable groundwater management of the basin), because 1) the project is proposed on a developed site that is not recharging groundwater through injection well-related measures (e.g., infiltration trenches, infiltration galleries), and 2) project construction would not involve major excavation or other activities that could result in access to groundwater beneath the property. **Less Than Significant Impact**.

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

ci) **Result in substantial erosion or siltation on- or off-site?**

Construction of the project would require grading activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. This increase in erosion is expected to be minimal, due to the relatively small size and flatness of the site. The City's implementation requirements to protect water quality are described below.

Construction Impacts

The project shall incorporate BMPs into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*, and include preventing spills and leaks, cleaning up spills immediately after they happen, storing materials under cover, and covering and maintaining dumpsters. Prior to the issuance of a grading permit, the applicant would be required to submit an Erosion Control Plan to the Department of Public Works. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities.

The project applicant is required comply with the City of San José Grading Ordinance, including 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. Restriction of grading to the dry season (April 30 through October 1) or meet City requirements for grading during the rainy season;
2. Utilize on-site sediment control BMPs to retain sediment on the project site;
3. Utilize stabilized construction entrances and/or wash racks;
4. Implement damp street sweeping;
5. Provide temporary cover of disturbed surfaces to help control erosion during construction; and

[47] Santa Clara Valley Water District, *2016 Groundwater Management Plan,* Figure 2-1.

6. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The project would increase impervious surfaces on the site and slightly modify the drainage pattern on the site. Consistent with the regulations and policies described above, the project will follow all standard permit conditions, as listed below. The standard permit conditions would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete and during the post-construction period as appropriate.

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 required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Post-Construction Impacts

The project is required to comply with applicable provisions of the following City Council Policies: Council Policy 6-29 Post-Construction Urban Runoff Management. The project will be required to implement Council Policy 6-29 Post-Construction Urban Runoff Management, which includes site design measures, source controls, and numerically-sized LID stormwater treatment measures that can help minimize stormwater pollutant discharges. Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), will be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

In conclusion, the project would not substantially alter existing drainage patterns or cause alteration of streams or rivers by conforming with the requirements of Council Policy 6-29. The project will not result in substantial erosion or siltation on or off site by complying with

the City's Grading Ordinance. Implementation of the standard permit conditions identified above would result in a **Less Than Significant Impact**.

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

The project would not increase the amount of impervious area on the project site compared to existing conditions because the site is fully developed. The project proposes to implement a stormwater control plan to manage runoff from the site (refer to Figure 7). Runoff would primarily be collected in stormwater treatment systems where flow rates would be decreased and treated prior to discharging into the City's drainage system. New storm drain laterals would be built and connect to the existing 24-inch storm drain main in Almaden Road. As a result, the proposed project would have a less than significant impact associated with flooding on- or off-site due to increased surface runoff. **Less Than Significant Impact**.

ciii) **Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?**

The project proposes to connect to the City's existing storm drainage system. The project is not expected to contribute runoff that would exceed the capacity of existing or planned stormwater drainage systems or result in substantial additional sources of polluted runoff. See also cii) above. **Less Than Significant Impact**.

civ) **Impede or redirect flood flows?**

The project site is located in Zone D, defined as an area of undetermined but possible flood hazard outside the 100-year floodplain. The City does not have any floodplain restrictions for development in Zone D. Therefore, the project would not impede or redirect flood flows. **Less Than Significant Impact**.

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

The project site is not located in an area subject to significant seiche or tsunami effects. The project site is located within an inundation area for the Anderson Dam, based on the map entitled "Dam Failure Inundation Areas" in the General Plan EIR (Association of Bay Area Governments). This map assumes complete failure with a full reservoir. The actual extent and depth of inundation in the event of a failure would depend on the volume of storage in the reservoir at the time of failure. The risks of failure are reduced by several regulatory inspection programs, and risks to people and property in the inundation area are reduced by local hazard mitigation planning. The California Department of Water Resources (DWR), Division of Safety of Dams is responsible for regular inspection of dams in California. DWR and local agencies (e.g., Santa Clara Valley Water District) are responsible for minimizing the risks of dam failure thus avoiding the release of pollutants due to project inundation. **Less Than Significant Impact**.

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

The project consists of development on an approximately 0.56-acre infill site. As discussed under a) and b) above, the proposed project would comply with the City's standard permit conditions, Policy 6-32, and the City of San José Grading Ordinance. In addition, the infill project would not impact groundwater recharge. Therefore, the project would not result in significant water quality or groundwater quality impacts that would conflict or obstruct implementation of a water quality control plan or sustainable groundwater management plan. **Less Than Significant Impact**.

Conclusion: All project-level impacts related to hydrology and water quality would be less than significant with mitigation, as described above, and implementation of standard permit conditions.

3.11 Land Use and Planning

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

State

The California State Density Bonus Law (California Government Code Section 65915) was adopted in 1979 in recognition of California's acute and growing affordable housing needs. The State Density Bonus Law has been amended multiple times since adoption, in response to evolving housing conditions, to provide clarification on the legislation, to respond to legal and implementation challenges, and to incorporate new or expanded provisions.

Assembly Bill 1763 – Density Bonus Law

In 2019, Governor Newsom signed AB 1763, which amended the State's Density Bonus Law) to encourage housing project consisting completely of affordable units. The purpose of AB 1763 is to increase the available units from new affordable housing development to the maximum possible on any given development site. Under AB 1763, these housing projects can receive an 80 percent density bonus from the maximum allowable density otherwise allowed on the site. Cities are unable to apply any density limits to projects within half of a mile of a major transit stop and can be granted a height increase of an additional three stories. Additionally, these projects are not subject to any City-mandated minimum parking requirements. All bonuses conferred under AB 1763 have to be requested by the developer during the planning phase of the project.

Regional and Local

Santa Clara Valley Habitat Plan

As discussed in Section 3.4, Biological Resources, the HCP was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife. As it pertains to issues of land use, the HCP helps public and private entities within the HCP's jurisdiction plan and conduct projects and activities in ways that lessen the impact on natural resources.

San José Municipal Code Chapter 20.190 – Affordable Housing Density Bonuses and Incentives

Chapter 20.190 of the City's Municipal Code provides density bonuses for eligible residential development projects within City limits. This section largely contains the mechanism for enforcing the density bonuses mandated at the State level (see discussion of AB 1763, above). This section mandates that density bonuses are ineligible for sites where dwelling units were demolished within the last five years. This section also sets out development standards for affordable units, including requiring concurrent construction with market rate units in the same development and various design standards to ensure that affordable units are constructed in a uniform manner compared to market-rate units constructed as part of the same development.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Land Use Policies	
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-4.9	For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).
Policy LU-9.4	Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated.
Policy LU-9.5	Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.
Policy VN-1.11	Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
Policy VN1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods

3.11.1.2 *Existing Setting*

The project site is located in an urbanized area within the jurisdiction of the City of San José. The project site is surrounded by the following uses:

- North: Multi-Family Residential, *Urban Residential* General Plan designation
- South: Multi-Family Residential, *Urban Residential* General Plan designation
- East: Almaden Road, Multi-Family Residential, *Urban Residential* General Plan designation
- West: Single-Family Residential, *Residential Neighborhood* General Plan designation

The project site is designated *Urban Residential* in the General Plan Land Use/Transportation Diagram. The *Urban Residential* designation allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. This designation supports medium-density residential development at 30-95 du per acre, with a FAR of 1.0 to 4.0 and 3 to 12 stories.

The applicant is proposing a Special Use Permit and Tentative Condominium Map. Currently, the site is in the R-M Multiple Residence Zoning District. The R-M Multiple Residence Zoning District is intended for construction, use and occupancy of higher density residential development.

3.11.2 Impacts and Mitigation

3.11.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to land use and planning would be considered significant if the project would:

a) Physically divide an established community; or

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

3.11.2.2 *Project Impacts*

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

The project is proposed on an infill site that is surrounded on all sides by urban development. Multi-family residential uses are located north, east, and south of the site and single-family residential uses are located to the west. The proposed residential building would not physically divide an established community. **No Impact**.

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

The project site is designated *Urban Residential* in the General Plan, which supports medium-density residential development at 30-95 DU per acre, with an FAR of 1.0 to 4.0 and 3 to 12 stories in height in or near planned growth areas. The project would be consistent with the *Urban Residential* designation. The project proposes an infill residential development with 62 residential condominium units in a six-story building that includes podium parking on an approximately 0.57-gross acre site. The project proposes a density of approximately 106 DU/AC and an FAR of 3.6. A new multi-family residential development was constructed south of the site at a density of 55 du/acre and is five-stories in height. Properties to the east of the site also have General Plan designations of *Urban Residential* and could be redeveloped with a residential density of up to 95 du/acre in the future.

The applicant is proposing to designate 11 units within the project (20% of the total units on-site) as for-sale moderate income affordable housing units. In accordance with the California Density Bonus Law and Municipal Code Section 20.190, housing developments that designate 20% of the units of a housing project for for-sale affordable moderate-income households can receive up to 15% density bonus over the maximum allowed density. In this case, the project would be permitted to exceed the maximum General Plan density of 95 du/ac to 109.25 du/ac for a total of 62 units (rounding up to the nearest unit per State law).

The applicant is proposing a Special Use Permit and Tentative Map for condominiums and would comply with the development requirements of these entitlements. The project is consistent with the General Plan designation for the site, including density and use (with the density bonus request). In terms of physical impacts on the environment, this EIR analyzes the environmental impacts of the project within each resource section of the document and

provides measures and conditions to reduce the physical impacts of the project. Therefore, the project would have a less than significant impact related to conflicts with land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. **Less Than Significant Impact**.

Non-CEQA Issues

Visual Intrusion (Privacy)

Visual intrusion addresses the general concern that windows or balconies from taller buildings would provide visual access to neighboring yards and windows of private residences. Sensitive receptors surround the project site, including single-family residences located approximately 20 feet west of the proposed development, multi-family residences located approximately nine feet south of the proposed development, multi-family residences located approximately 15 feet north of the proposed development, and multi-family residences approximately 140 feet to the southeast (across Almaden Road) of the proposed development.

In urban built-out environments, properties are in close proximity to one another and complete privacy is not typical or practical. Nevertheless, implementation of the project would create a greater possibility of visual intrusion from the project site to the adjacent off-site residential properties than what currently exists.

As proposed, the project would be six stories with a maximum height of approximately 78 feet (from grade to top of elevator and stairwell). The project is consistent with its designation of *Urban Residential*, which has an allowable FAR of up to 4.0. The project would be set back from the property lines to the west by approximately 25 feet and five feet from the property lines to the north and south. The building steps down to two-stories in height at the western side of the property that abuts single-family residential uses. The residence immediately west of the site would have a larger set back from the property line due to the installation of a dog run and open space between the property line and the western building façade.

Conclusion: No project-level impacts related to land use and planning would occur as a result of the project.

3.12 Mineral Resources

3.12.1 Environmental Setting

3.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE). There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA.

3.12.1.2 *Existing Conditions*

Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA. The project site lies outside of the Communications Hill area.

3.12.2 Impacts and Mitigation

3.12.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to mineral resources would be considered significant if the project would:

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; or

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

3.12.2.2 *Project Impacts*

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

The project site is located over a mile northwest of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA; therefore, the project will not result in a significant impact from the loss of availability of a known mineral resource. **No Impact**.

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

The project site is located over a mile northwest of the Communications Hill area, the only area in San José containing mineral deposits subject to SMARA; therefore, the project will not result in a significant impact from the loss of availability of a known mineral resource. **No Impact**.

Conclusion: No project-level impacts related to mineral resources would occur as a result of the project.

3.13 Noise and Vibration

A noise and vibration assessment has been prepared for the project by Illingworth & Rodkin, Inc. (September 2020), which is contained in Appendix E. The following discussion summarizes the results of this assessment.

3.13.1 Environmental Setting

3.13.1.1 *Background Information*

Noise Fundamentals

Noise is measured in decibels (dB) and is typically characterized using the A-weighted sound level or dBA. This scale gives greater weight to the frequencies to which the human ear is most sensitive. The General Plan applies the Day-Night Level (DNL) descriptor in evaluating noise conditions. The DNL represents the average noise level over a 24-hour period and penalizes noise occurring between the hours of 10 PM and 7 AM by 10 dB.

Vibration Fundamentals

Several different methods are typically used to quantify vibration amplitude. One method, used by the City, is Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. For this analysis, the PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human annoyance.

3.13.1.2 *Regulatory Framework*

Federal

Federal Highway Administration Roadway Construction Noise Model

The Federal Highway Administration (FHWA) Roadway Construction Noise Model (RNCM) is the national model for prediction of noise generated by construction projects. Since construction frequently occurs near to residences and businesses, the FHWA developed the RNCM in an effort to control and monitor construction noise to avoid impacts on surrounding communities and neighborhoods. The RNCM provides a federally-recognized construction noise screening tool to reliably and easily predict construction noise levels and to determine compliance with noise limits for construction projects of varying types.

State

California Building Code

The current version of the California Building Code (CBC) requires interior noise levels attributable to exterior environmental noise sources to be limited to a level not exceeding 45 dBA DNL/CNEL in any habitable room. The State of California established exterior sound transmission control standards for new non-residential buildings as set forth in the 2016 California Green Building Standards Code (Section 5.507.4.1 and 5.507.4.2). These sections identify the standards (e.g., STC rating) that building materials and assemblies need to be in compliance with based on the noise environment.

Local

San José General Plan Noise Compatibility Guidelines

The City's General Plan includes goals and policies pertaining to noise and vibration. Community Noise Levels and Land Use Compatibility (commonly referred to as the Noise Element) of the General Plan utilizes the DNL descriptor and identifies interior and exterior noise standards for residential uses. The General Plan include the following criteria for land use compatibility and acceptable exterior noise levels in the City based on land use types.

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.)					

Additionally, policies in the General Plan have been adopted for the purpose of avoiding or mitigating noise and vibration impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Noise and Vibration Policies	
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

Envision San José 2040 Relevant Noise and Vibration Policies	
	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 • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (refer to Table EC-1 in the General Plan. Residential uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan 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-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.1	Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

Envision San José 2040 Relevant Noise and Vibration Policies	
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 buildings 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. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of a historical building, or building in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of cosmetic damage to sensitive buildings from the new development during demolition and construction.

San José Municipal Code

Per the San José Municipal Code Title 20 (Zoning Ordinance) Noise Performance Standards, the sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in the table below at any property line, except upon issuance and in compliance with a Special Use permit as provided in Chapter 20.100.

City of San José Zoning Ordinance Noise Standards	
Land Use Types	**Maximum Noise Levels in Decibels at Property Line**
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial use adjacent to a property used for zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial use or other use other than commercial or residential purposes	70

Chapter 20.100.450 of the Municipal Code establishes allowable hours of construction within 500 feet of a residential unit between 7:00 AM and 7:00 PM Monday through Friday unless permission is granted with a development permit or other planning approval, which is not expected for the project. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

3.13.1.3 *Existing Setting*

Existing Noise Environment

At the time that the noise assessment was prepared, construction was ongoing at the adjoining site to the south as well as construction along Almaden Road adjacent to the project site; therefore, long-term noise measurements were not made at the site or surrounding area.[48][49] Short-term noise measurements were made on Friday, October 25, 2019, following the construction workday. This noise monitoring survey included two measurement locations (ST-1 and ST-2), which are shown in Figure 15. Short-term noise measurements were made over 10-minute periods between 4:20 PM and 4:50 PM. All short-term measurement results are summarized in Table 14.

In the absence of local construction noise, the existing noise environment at the project site results primarily from vehicular traffic along SR 87. Traffic along Almaden Road and aircraft associated with Norman Y. Mineta San José International Airport operations also affect the ambient noise environment.

Noise measurement ST-1 was made in the northeastern corner of the site, approximately 30 feet west of the centerline of Almaden Road. A total of 79 cars, generating noise levels ranging from 64 to 76 dBA, and two heavy trucks, generating noise levels ranging from 73 to 75 dBA, passed along Almaden Road during the ST-1 measurement. Additionally, two overhead jets generated noise levels of 63 to 65 dBA at ST-1.

Table 14
Summary of Short-Term Noise Measurements (dBA)

Noise Measurement Location (Date, Time)	L_{max}	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	$L_{(90)}$	$L_{eq(10\text{-}min)}$
ST-1: ~30 feet west of the centerline of Almaden Road (10/25/2019, 4:20-4:30 p.m.)	78	76	69	63	59	66
ST-2: Back of 1747 Almaden Road project site (10/25/2019, 4:40-4:50 p.m.)	64	59	55	53	51	53

Noise measurement ST-2 was made at the rear of the project site, more than 330 feet from the centerline of Almaden Road. Cars produced noise levels at ST-2 that ranged from 50 to 52 dBA, and a noisy motorcycle along SR 87 generated noise levels of 55 dBA. One jet flew overhead during the ST-2 measurement, producing noise levels of 59 dBA. The maximum noise level measured in this time period was from people talking near a microphone located at the western side of the project site at the residential property line (63 dBA).

[48] Long-term measurements are 24-hour measurements and are required to determine the existing DNL at the site and surrounding area.

[49] Even though the construction projects are complete; ambient noise measurements taken now would not adequately represent typical traffic noise conditions due to COVID-19 pandemic County of Santa Clara Public Health Order restrictions, which have decreased traffic volumes along the surrounding roadways.

Noise Measurement Locations

Figure 15

Almaden Villas
Draft EIR

3.13.2 Impacts and Mitigation

3.13.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to noise and vibration would be considered significant if the project would:

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

b) Result in generation of excessive groundborne vibration or groundborne noise levels; or

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, expose people residing or working in the project area to excessive noise levels.

Table 15
Summary of Future Exterior and Interior Noise Levels Along Each Building Façade

Building Façade	Future Exterior Noise Levels, DNL (dBA)	Future Interior Noise Levels, DNL (dBA)	Minimum STC Ratings
Eastern Façade	72 to 74	57 to 59	31 STC
Northern and Southern Façades	Below 60 to 74	Below 45 to 59	28 to 31 STC
Western Façade	Below 60	Below 45	Standard construction

3.13.2.2 *Project Impacts*

Baseline Conditions - COVID

The noise and vibration assessment was prepared using information reflective of pre-COVID conditions and prior to the enaction of shelter-in-place orders. The only input to the noise and vibration analysis that could be affected by COVID conditions is traffic. The noise assessment conservatively assumed a 1% to 2% increase in traffic volumes by 2035, which would account for about a one dBA DNL increase over existing conditions. Based on noise measurements made since the COVID outbreak, measured noise levels by Illingworth & Rodkin have shown a difference of about less than one dBA DNL from pre-COVID measurements. Thus, the future noise levels estimated in the noise assessment represent a conservative scenario.

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

The noise-related effects associated with the project are described below based on the results of the noise and vibration study in Appendix E.

Operational Noise Impacts

Mechanical Equipment. The City's General Plan does not include policies specifically addressing mechanical noise generated by residential land uses. However, the residential mechanical noise is evaluated to address the City's Municipal Code threshold of 55 dBA DNL to minimize disturbance to the existing and future residences surrounding the project site.

The site plan of the proposed project shows rooftop mechanical equipment, including heating, ventilation, and air conditioning systems (HVAC units) and solar panel arrays. Details pertaining to the number, size, type, and manufacturer-provided noise level information of such equipment were not available at the time of the noise study.

Typical noise levels produced residential HVAC units would range from 53 to 63 dBA at three feet during operation. These types of units typically cycle on and off continuously during daytime and nighttime hours. Therefore, multiple units clustered in the same general vicinity are usually operating simultaneously at any given time. Assuming up to eight units would operate simultaneously at any given time, the estimated day-night average noise level at 3 feet would be up to 78 dBA DNL. The HVAC units are shown to be set back approximately 30 feet from the southern property line, approximately 35 feet from northern property line, and approximately 150 feet from the western property line. The day-night average noise level would be 58 and 57 dBA DNL at the shared property planes to the south and north, respectively, assuming eight units operating simultaneously and no shielding. At the western property plane, the day-night average noise levels would be below 55 dBA DNL, assuming eight units operating simultaneously and no shielding. The estimated operational noise levels are summarized in Table 16.

Table 16
Estimated Operational Noise Levels for Eight HVAC Units Operating Simultaneously

Receptor	Distance from Noise Source	Hourly Average Noise Level	Day-Night Average Noise Level
Northern Residential Property Plane	35 feet	41 to 51 dBA L_{eq}	57 dBA DNL
Southern Residential Property Plane	30 feet	42 to 52 dBA L_{eq}	58 dBA DNL
Western Residential Property Plane	150 feet	28 to 38 dBA L_{eq}	45 dBA DNL
Eastern Residential Property Plane	160 feet	27 to 37 dBA L_{eq}	44 dBA DNL

The off-site residential buildings to the north and to the south are close to the shared property lines. Both of these residential buildings would be approximately 40 feet from the nearest rooftop HVAC units; however, the existing building to the north is four stories and the residential units located on the fourth floor would be partially shielded from the HVAC units on the rooftop of the proposed building. The existing building to the south is expected to be a six-floor building once completed. Therefore, the residential units on the sixth floor would have little to no attenuation. The day-night average noise levels at the exterior façades of the residential buildings to the north and to the south would be below 55 and 56 dBA DNL, respectively.

The nearest single-family residence to the west would be approximately 210 feet from the HVAC units, with the center of the backyard approximately 180 feet from the HVAC units. The residences along Guadalupe Avenue are single-story buildings with ground-level backyards. Therefore, the height of the proposed building would provide some shielding. The day-night average noise level at the backyard would be about 43 dBA DNL, while the day-night average noise level at the residential façade would be 42 dBA DNL. The multi-family residential building east of Almaden Road is a two-story building located approximately 180 feet from the nearest HVAC units. Due to the height of the proposed building, these residences would also be partially shielded. The day-night average noise level at the nearest façade would be 43 dBA DNL.

Noise levels generated by solar panels, which are shown to be located along the edges of the proposed building's rooftop, are low and would be inaudible at the shared residential property lines. The Municipal Code limit of 55 dBA DNL would not be exceeded at the property lines by noise generated by the solar panels.

Since the City's General Plan does not include policies specifically addressing mechanical noise generated by residential land uses, no General Plan policies would be violated by noise levels generated by the HVAC units, and this could be considered a less-than-significant impact. However, it is expected that mechanical equipment noise generated from the rooftop of the proposed building could potentially exceed the City's Municipal Code thresholds.

Impact NSE-1: Noise from rooftop mechanical noise equipment could exceed 55 dBA DNL at noise-sensitive land uses in the immediate project vicinity, which represents a potentially significant impact.

Mitigation Measures

MM NSE-1.1 Prior to the issuance of any building permit, the project applicant shall ensure all mechanical equipment and/or noise barriers are selected and designed to reduce noise impacts on surrounding uses by meeting the City's 55 dBA DNL noise limit requirements at the shared property line. The project applicant shall retain a qualified acoustical consultant to review mechanical noise as the equipment systems are selected in order to determine specific noise reduction measures to meet the City's requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and/or installation of noise barriers such as enclosures and parapet walls to block the line-of-sight between the noise source and the nearest receptors. The applicant's retained qualified acoustical consultant shall prepare a detailed acoustical study during final building design to evaluate the potential noise generated by building mechanical equipment and to identify the necessary noise controls that are included in the design to meet the City's requirements. The study shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permit.

Traffic Noise. A significant permanent noise increase would be identified if traffic noise generated by the project would result in a noise level increase of 5 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or 3 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

The traffic study included peak hour turning movements for the existing traffic volumes at three intersections along Almaden Road, including one at the future access driveway of the project site. The traffic study also included peak hour project trips (23 AM peak-hour trips and 29 PM peak-hour trips), which when added to the existing volumes provided existing plus project peak hour turning movements. By comparing the existing plus project traffic scenario to the existing scenario, the project's contribution to the overall noise level increase was determined to be less than 1 dBA DNL. Therefore, the project would not result in a permanent noise increase of 3 dBA DNL or more at noise-sensitive receptors in the project vicinity. This represents a less than significant impact.

Outdoor Use Areas. The communal outdoor use areas are not considered noise-generating uses. Gardening, yoga, and normal conversation are considered typical ambient background noise that would not measurably increase existing noise levels. While, at times, noise may be audible (e.g., dog barking, voices), these types of sources are short in duration and would not measurably contribute to the overall average noise levels on an hourly or 24-hour basis. These types of sources are the same activities that occur at the common outdoor areas of the existing residences surrounding the site. For these reasons, residential land uses are considered compatible with other residential land uses.

Construction Noise

Noise impacts resulting from construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Policy EC-1.7 of the City's General Plan requires that all construction operations within the City to use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code allowable hours, which are between the hours of 7 AM and 7 PM, Monday through Friday, when construction occurs within 500 feet of a residential land use. Further, the City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would involve substantial noise-generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. The project is scheduled to start construction in 2021 and complete construction within approximately 19 months.

Existing residences located along Almaden Road are represented by ST-1, which had daytime noise levels of 66 dBA Leq, while residences located to the west of the project would have ambient daytime noise levels of 53 dBA Leq, as measured at ST-2.

The typical range of maximum instantaneous noise levels for the proposed project, based on the equipment list provided, would be 70 to 90 dBA Lmax at a distance of 50 feet (see Table 17) from the equipment. Table 18 shows the average noise level ranges, by construction phase. Hourly average noise levels generated by construction are about 65 to 88 dBA Leq for a residential development measured at a distance of 50 feet from the center of a busy construction site. Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

Project construction is expected to be completed in about 19 months. A detailed list of equipment expected to be used during each phase of construction was provided (Table 19). The FHWA's RCNM was used to calculate the hourly average noise levels for each phase of construction, assuming every piece of equipment would operate simultaneously, which would represent the worst-case scenario. This construction noise model includes representative sound levels for the most common types of construction equipment and the approximate usage factors of such equipment that were developed based on an extensive database of information gathered during the construction of the Central Artery/Tunnel Project in Boston, Massachusetts (CA/T Project or "Big Dig"). The usage factors represent the percentage of time that the equipment would be operating at full power. Typical construction noise levels at 50 feet are shown in Table 19.

For each phase, the worst-case hourly average noise level, as estimated at the property line of each surrounding land use, as shown in Table 19. For overall construction noise levels, multiple pieces of equipment used simultaneously would add together creating a collective noise source. While every piece of equipment per phase would likely be scattered throughout the site, the noise-sensitive receptors surrounding the site would be subject to the collective noise source generated by all equipment operating at once. Therefore, to assess construction noise impacts at the receiving property lines of noise-sensitive receptors, the collective worst-case hourly average noise level for each phase was centered at the geometrical center of the site and propagated to the nearest property line of the surrounding land uses. These noise level estimates are also shown in Table 19.

In addition to the construction equipment in Table 19, cement trucks would be accessing the site throughout the building structure/exterior phase. Up to 145 total truck trips are expected during this phase; however, at any given time, no more than 5 trucks would be anticipated. The range in construction noise levels for this phase represents when no trucks are present on site and when up to 5 trucks are on site. At any instance, this would be the worst-case scenario. Noise levels presented in Table 19 do not assume reductions due to intervening buildings or existing barriers.

Table 17 Typical Ranges of Construction Noise Levels at 50 Feet, L_{eq} (dBA)								
	Domestic Housing		Office Building, Hotel, Hospital, School, Public Works		Industrial Parking Garage, Religious Amusement & Recreations, Store, Service Station		Public Works Roads & Highways, Sewers, and Trenches	
	I	II	I	II	I	II	I	II
Ground Clearing	83	83	84	84	84	83	84	84
Excavation	88	75	89	79	89	71	88	78
Foundations	81	81	78	78	77	77	88	88
Erection	81	65	87	75	84	72	79	78
Finishing	88	72	89	75	89	74	84	84
I - All pertinent equipment present at site. **II** - Minimum required equipment present at site.								
Source: U.S.E.P.A., Legal Compilation on Noise, Vol. 1, p. 2-104, 1973.								

As shown in Table 19, ambient levels of 66 dBA Leq at ST-1 and 53 dBA Leq at ST-2 at the surrounding uses would potentially be exceeded by 5 dBA Leq or more at various times throughout construction. Since project construction would last for a period of more than one year and considering that the project site is within 500 feet of existing residences, the proposed project would be considered a significant temporary noise impact that would be minimized by implementation of following measures.

Table 18
Estimated Construction Noise Levels at Nearby Land Uses

Phase of Construction	Time Duration	Construction Equipment (Quantity)	Calculated Hourly Average Noise Levels, L_{eq} (dBA)							
			Ambient Noise Levels = 66 dBA L_{eq}						Ambient Noise Levels = 53 dBA L_{eq}	
			North Res. (55 ft)		South Res. (30 ft)		East Res. (220 ft)		West Res. (160 ft)	
			Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?	Level, dBA	Exceeds Ambient by 5 dBA or more?
Demolition	25 days	Concrete/Industrial Saw (1) Excavator (1)	83	Yes	88	Yes	71	Yes	74	Yes
Site Preparation	5 days	Grader (1) Rubber-Tired Dozer (1) Tractor/Loader/Backhoe (1)	84	Yes	89	Yes	72	Yes	74	Yes
Grading/ Excavating	30 days	Scraper (1) Excavator (1) Tractor/Loader/Backhoe (1)	84	Yes	89	Yes	72	Yes	74	Yes
Trenching/ Ground Improvement	21 days	Tractor/Loader/Backhoe (1) Excavator (1)	81	Yes	86	Yes	69	No	72	Yes
Building Exterior	250 days	Crane (1) Forklift (1) Generator Set (1) Tractor/Loader/Backhoe (1) Welder (1)	82-85[a]	Yes	87-90[a]	Yes	70-73[a]	Yes	73-75[a]	Yes
Building Interior/ Architectural Coating	47 days	Air Compressor (3) Aerial Lift (2) Man Lift (1)	79	Yes	84	Yes	67	No	69	Yes

[a] Range in hourly average noise levels reflects when no cement trucks are present at the construction site and when up to 5 trucks are operating on site.

The potential short-term noise impacts associated with construction of the project would be mitigated by the implementation of General Plan Policy EC-1.7. This policy states:

> "Construction operations within the City will be required to use available noise suppression devices and techniques and continue to limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:
>
> - Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.
>
> For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses."

Impact NSE-2: Construction of the project would result in potentially significant, short-term noise impacts.

MM NSE-2 The project contractor shall implement the following measures during construction**.**

- Construction will be limited 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.

- 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.

- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

- The unnecessary idling of internal combustion engines shall be prohibited.

- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors, such as residential uses (a minimum of 200 feet).

- 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.

- A "noise disturbance coordinator" shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site, which would also be included in the notice sent to neighbors regarding the construction schedule.

- A "construction noise logistics plan," in accordance with Policy EC-1.7, would be required. Typical construction noise logistics plan would include, but not be limited to, the following measures to reduce construction noise levels as low as practical:

    - Utilize 'quiet' models of 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.

    - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.

    - Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.

    - If stationary noise-generating equipment must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used. Any enclosure openings or venting shall face away from sensitive receptors.

    - Ensure that generators, compressors, and pumps are housed in acoustical enclosures.

- Locate cranes as far from adjoining noise-sensitive receptors as possible.

- During final grading, substitute graders for bulldozers, where feasible. Wheeled heavy equipment are quieter than track equipment and should be used where feasible.

- Substitute nail guns for manual hammering, where feasible.

- Substitute electrically-powered tools for noisier pneumatic tools, where feasible.

- The Construction Noise Logistic Plan, inclusive of the above shall be signed by a qualified acoustical specialist verifying that the implementation measures included in this Plan meets the reduction to noise levels as required by this mitigation measure.

With the implementation of the mitigation measures listed above, GP Policy EC-1.7, and Municipal Code requirements, the operational and construction noise impacts would be **Less than Significant Impact with Mitigation Incorporated**.

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

The construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used. Construction activities would include site preparation work, foundation work, and new building framing and finishing. Pile driving equipment, which can cause excessive vibration, is not expected to be required for the proposed project.

According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction.

Table 19 presents typical vibration levels that could be expected from construction equipment at a distance of 25 feet. 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. 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. Table 19 also summarizes the distances to the 0.08 in/sec PPV threshold for historical buildings and to the 0.2 in/sec PPV threshold for all other buildings.

Table 19 Vibration Source Levels for Construction Equipment				
Equipment		**PPV at 25 ft. (in/sec)**	**Minimum Distance to Meet 0.08 in/sec PPV (feet)**	**Minimum Distance to Meet 0.2 in/sec PPV (feet)**
Clam shovel drop		0.202	58	26
Hydromill (slurry wall)	in soil	0.008	3	1
	in rock	0.017	6	2
Vibratory Roller		0.210	60	27
Hoe Ram		0.089	28	12
Large bulldozer		0.089	28	12
Caisson drilling		0.089	28	12
Loaded trucks		0.076	24	10
Jackhammer		0.035	12	5
Small bulldozer		0.003	1	<1
Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, FTA Report No. 0123, September 2018, as modified by Illingworth & Rodkin, Inc., November 2019.				

Based on the inventory of historically documented buildings in the City of San José,[50] there are no historical structures located within 200 feet of the project boundary. Therefore, vibration levels exceeding 0.2 in/sec PPV at the surrounding buildings would be considered a significant impact.

Table 20 summarizes the vibration levels at the nearest building façade to the north, south, east, and west of the project site. While construction noise levels increase based on the cumulative equipment in use simultaneously, construction vibration levels would be dependent on the location of individual pieces of equipment. That is, equipment scattered throughout the site would not generate a collective vibration level, but a vibratory roller, for instance, operating near the project site boundary would generate the worst-case vibration levels for the receptor sharing that property line. Further, construction vibration impacts are assessed based on damage to buildings on receiving land uses, not receptors at the nearest property lines.

To the north and south, the multi-family residential buildings would be approximately 15 feet from the project's respective boundaries. At 15 feet, the residential buildings would be exposed to vibration levels up to 0.37 in/sec PPV, which would exceed the City's 0.2 in/sec PPV threshold. The single-family residences to the west would be 20 feet or more from the project's western boundary, which would expose these structures to levels up to 0.27 in/sec PPV when construction activities occur near the shared property line.

The nearest residential structures opposite Almaden Road to the east would be 85 feet or more from the project's nearest boundary. At this distance, vibration levels would be at or below 0.06 in/sec PPV.

[50] http://www.sanjoseca.gov/DocumentCenter/View/35475

Table 20 Vibration Source Levels for Construction Equipment					
Equipment		**PPV (in/sec)**			
		North Res. (15 ft)	**South Res. (15 ft)**	**East Res. (85 ft)**	**West Res. (20 ft)**
Clam shovel drop		**0.354**	**0.354**	**0.053**	**0.258**
Hydromill (slurry wall)	in soil	0.014	0.014	0.002	0.010
	in rock	0.030	0.030	0.004	0.022
Vibratory Roller		**0.368**	**0.368**	0.055	**0.268**
Hoe Ram		0.156	0.156	0.023	0.114
Large bulldozer		0.156	0.156	0.023	0.114
Caisson drilling		0.156	0.156	0.023	0.114
Loaded trucks		0.133	0.133	0.020	0.097
Jackhammer		0.061	0.061	0.009	0.045
Small bulldozer		0.005	0.005	0.001	0.004
Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, FTA Report No. 0123, September 2018, as modified by Illingworth & Rodkin, Inc., November 2019.					

Typical construction equipment, as shown in Table 20, would have the potential to produce vibration levels of 0.2 in/sec PPV or more at the non-historical buildings surrounding the site. While no minor or major damage would occur at these conventional buildings, there is the potential to generate threshold or cosmetic damage at the surrounding buildings. At these locations, and in other surrounding areas within 200 feet, vibration levels would potentially be perceptible.

By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during less sensitive hours, perceptible vibration can be kept to a minimum. Limiting heavy construction to daytime hours is optimal to avoid disturbance during sensitive time periods (i.e., nighttime and evening hours).

Impact NSE-3: Typical construction equipment would have the potential to produce vibration levels of 0.2 in/sec PPV or more, potentially causing cosmetic damage of the non-historical buildings surrounding the site.

Mitigation Measures

MM NSE-3 **Implement Construction Vibration Monitoring, Treatment, and Reporting Plan:** The project applicant shall implement a construction vibration monitoring plan to document conditions at adjacent buildings prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed professional structural engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring.

- Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.

- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within at least 25 feet of any adjacent building, as recommended by the retained licensed professional acoustical engineer.

- Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed professional structural engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:

    - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels.

    - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within at least 30 feet or more of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion of vibration generating construction activities, and shall include internal and external crack monitoring in the structures, settlement, and distress, and shall document the condition of the foundations, walls and other structural elements in the interior and exterior of said structures.

- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before

and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.

- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.

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

- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

The implementation of these mitigation measures identified above would result in a **Less Than Significant Impact with Mitigation Incorporated**.

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?**

Norman Y. Mineta San José International Airport is a public-use airport located approximately 3.85 miles northwest of the project site. According to the City's new Airport Master Plan Environmental Impact Report,[51] the project site lies outside the 60 dBA CNEL/DNL contour line (see Appendix E). According to Policy EC-1.11 of the City's General Plan, the required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts. Therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise. **Less than Significant Impact**.

Conclusion: All project-level impacts related to noise and vibration would be reduced to a less-than-significant level with incorporation of mitigation as identified above.

3.13.3 Non-CEQA Effects

In December 2015, the California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (*CBIA vs. BAAQMD*) case that CEQA is primarily concerned with the impacts of a project on the environment, not the effects of the existing environment on a project. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. However, General Plan Policy EC-1.1 requires that existing ambient noise levels be analyzed for new residences and that noise attenuation be incorporated into the project in order to reduce interior and exterior noise levels to acceptable limits.

[51] David J. Powers & Associates, Inc., Integrated Final Environmental Impact Report, Amendment to Norman Y. Mineta San Jose International Airport Master Plan, April 2020.

The Environmental Leadership Chapter in the General Plan sets forth policies with the goal of minimizing the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies in the City of San José. The applicable General Plan policies were presented in detail in the regulatory framework section and are summarized below for the project:

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for the proposed residential use (Table EC-1).

- The City's standard for interior noise levels in residences is 45 dBA DNL.

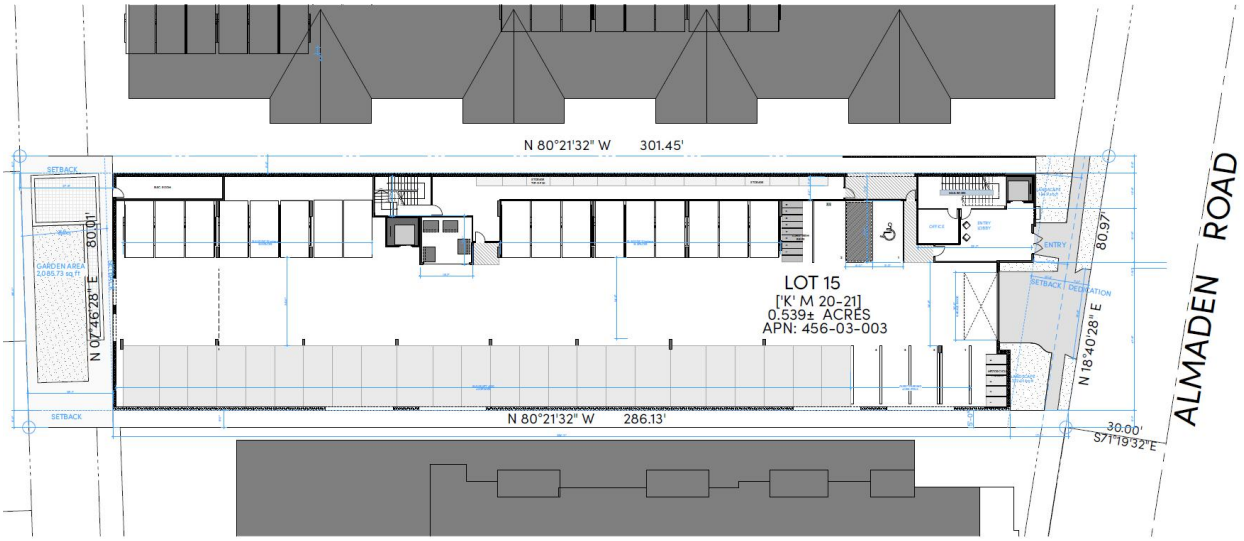
Future Exterior Noise Environment

The noise environment is dominated by the traffic noise from SR 87. The secondary source would be local vehicular traffic. Train noise and aircraft noise have little impact on the noise environment. There are no adjacent commercial or industrial sites. The exterior noise threshold established in the City's General Plan for new residential buildings is 60 dBA DNL at common use outdoor activity areas, not including private decks or balconies. According to the site plan, two common use outdoor activity areas are proposed as part of the project: 1) a ground-level garden area, which is located at the back of the project site (see Figure 16), and 2) a second-floor community deck area, which is located along the northern building façade and would be surrounded by the proposed building on three sides (see Figure 17).

Garden Area

Due to the proposed building and existing buildings adjoining the site, the ground-level garden area, which is shown to the west of the proposed building in Figure 15, would be adequately shielded from traffic along SR 87 and Almaden Road. The future exterior noise levels at these outdoor use areas would be below 60 dBA DNL.

Figure 16. Ground-Level Site Plan



Community Deck Area

The second-floor community deck area, which is shown in the northwest corner of the building in Figure 17, would be mostly shielded on three sides; however, the northern edge of the outdoor use area would have some exposure to noise levels from SR 87. At the center of this space, the future exterior noise levels would be below 60 dBA DNL, while along the north edge, the future exterior noise levels would be 65 dBA DNL.

Figure 17. Second-Floor Site Plan

Conditions of Approval

- The applicant's retained qualified acoustical consultant shall prepare a detailed acoustical study during final building design to evaluate the land use compatibility of the proposed common use outdoor spaces with the future noise environment at the site and to identify the necessary noise controls that are included in the design to meet the City's requirements. Prior to issuance of any building permit, the study shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Future Interior Noise Environment

The City requires that interior noise levels be maintained at 45 dBA DNL or less for residential land uses.

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

Eastern Building Façade

The residential units located along the eastern building façade nearest Almaden Road would be set back from the centerline of the roadway by approximately 45 feet. At this distance, the units facing Almaden Road would be exposed to future exterior noise levels ranging from 72 dBA DNL on the second floor to 74 dBA DNL on the sixth floor.

Northern and Southern Building Façades

Units along the northern and southern façades would receive additional shielding from traffic noise by the existing and future residential building adjoining the site. With setbacks ranging from 45 to 270 feet, the units along the northern and southern façades would be exposed to future exterior noise levels ranging from below 60 to 72 dBA DNL on the second floor and from 66 to 74 dBA DNL on the sixth floor.

Western Building Façade

Units along the western façade would be shielded from traffic noise along SR 87 and Almaden Road. These units would be exposed to future exterior noise levels from below 60 dBA DNL on the second floor to 64 dBA DNL on the sixth floor.

Table 21 summarizes the future noise levels at the exterior façades, as well as within the residential interiors along each building façade, assuming windows to be partially open for ventilation. Assuming windows to be partially open for ventilation, the future interior noise levels for the proposed project would exceed the City's interior noise threshold of 45 dBA DNL within residential units located along the eastern, northern, and southern façades. Noise insulation features would be required to reduce interior noise levels to at or below 45 dBA DNL.

Table 21
Summary of Future Exterior and Interior Noise Levels Along Each Building Façade

Building Façade	Future Exterior Noise Levels, DNL (dBA)	Future Interior Noise Levels, DNL (dBA)	Minimum STC Ratings
Eastern Façade	72 to 74	57 to 59	31 STC
Northern and Southern Façades	Below 60 to 74	Below 45 to 59	28 to 31 STC
Western Façade	Below 60	Below 45	Standard construction

Noise Insulation Features to Reduce Future Interior Noise Levels

The following noise insulation features shall be incorporated into the proposed project to reduce interior noise levels to 45 dBA DNL or less:

- Preliminary calculations indicate that residential units nearest to Almaden Road along the eastern façade would require windows and doors with a minimum rating of 31 STC with adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.

- Residential units located along the northern and southern façades within approximately 120 feet of the centerline of Almaden Road would require windows and doors with minimum STC ratings of 30 to 31 with the incorporation of suitable forced-air mechanical ventilation to meet the City's 45

dBA DNL threshold. Beyond 120 feet, windows and doors would require a minimum STC rating of 28.

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.

The implementation of these noise insulation features would reduce interior noise levels to 45 dBA DNL or less.

Condition of Approval

- Prior to issuance of a building permit, a qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase pursuant to requirements set forth in the State Building Code and establish appropriate criteria for noise levels inside the commercial spaces affected by environmental noise. The study will review the final site plan, building elevations, and floor plans \ and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City's Building Division, along with the building plans and approved design, The project applicant shall conform with any special building construction techniques requested by the City's Building Division, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

3.14 Population and Housing

3.14.1 Environmental Setting

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

3.14.1.1 *Regulatory Framework*

State

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the state mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[52] The City of San José Housing Element and related land use policies were last updated in January 2015.

Density Bonus

Effective January 1st, 2020, AB 1763 provides various benefits to encourage development of additional affordable and senior housing. AB 1763 provides an 80% density bonus to new housing development projects that offer 100% affordable housing. AB 1763 also requires local governments to grant concessions to developers in order to reduce development costs for affordable housing, including reducing setbacks, minimum square footage, and other concessions. For projects within a half-mile of a major transit stop, AB 1763 supersedes all density requirements implemented by local governments, allowing a height increase of three stories or 33 feet. For special needs or supportive housing development types located within a half-mile of an accessible bus route or which offer paratransit service, AB 1763 completely eliminates all local parking requirements for new affordable housing development projects.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use

[52] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 27, 2018. http://hcd.ca.gov/community-development/housingelement/index.shtml

residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[53]

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

Density Bonus

Chapter 29.190 of the City's municipal code provides affordable housing and density bonuses and incentives specific to projects within the City. Upon timely request for a regulatory agreement by applicants for affordable housing and senior care housing, the City grants density bonuses as required per State Housing Density Bonuses and Incentives Law. Chapter 29.190 provides all requirements and timing necessary for an applicant to provide a request for a regulatory agreement for a housing density bonus. Chapter 29.190 also provides requirements for parking, building height, setbacks, and other considerations for affordable housing projects.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating population and housing impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Population and Housing Policies	
Policy CD-1.9	Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings

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

3.14.1.2 *Existing Conditions*

Based on information from the State Department of Finance, the City of San José's population was estimated to be 945,942 in April 2020 and had an estimated total of 314,038 housing units, with an average of 3.2 persons per household.[54] ABAG projects that the City's population will reach 1,445,000 with 472,000 households by 2040.[55]

3.14.2 Impacts and Mitigation

3.14.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to population and housing would be considered significant if the project would:

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

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

3.14.2.2 *Project Impacts*

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

The project proposes 62 residential units and would accommodate an estimated 198 residents (based on 3.2 residents per unit). This does not represent substantial population growth. The General Plan EIR concluded that the potential for direct growth inducing impacts from buildout of the General Plan would be minimal because planned growth would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area. The proposed residential development is consistent with the project site's General Plan land use designation and, therefore, would not add growth beyond that anticipated from buildout of the General Plan. Please refer to Section 3.11. Land Use and Planning and Section 4. Growth-Inducing Effects. **Less Than Significant Impact**.

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

The project site is currently occupied by commercial uses and does not contain any housing. Thus, the residential project would not displace existing housing or require the construction of replacement housing. **No Impact**.

Conclusion: All project-level impacts associated with population and housing would be less than significant.

[54] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State— January 1, 2011-2019." May 2019. Accessed October 7, 2019. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/
[55] http://projections.planbayarea.org/

3.15 Public Services

3.15.1 Environmental Setting

3.15.1.1 *Regulatory Framework*

State

California Government Code Section 65996

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

Quimby Act – California Code Sections 66475-66478

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

Regional and Local

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities onsite. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site or provide a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating public service impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Public Service Policies	
Policy ES-2.2	Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 SF of space per capita in library facilities.
Policy ES-3.1	Provide rapid and timely Level of Service (LOS) response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
Policy ES-3.11	Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects. 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 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-1.12	Regularly update and utilize San José's Parkland Dedication Ordinance / Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

3.15.1.2 *Existing Conditions*

Fire Protection

Fire protection services are provided to the project site by the San José Fire Department (SJFD). The closest fire station to the project site is Station 6, located about 1.7 miles from the project site at 1386 Cherry Avenue.

Police Protection

Police protection services are provided to the project site by the San José Police Department (SJPD) headquartered at 201 West Mission Street, approximately 9.23 miles from the project site. The City has four patrol divisions and 16 patrol districts. Patrols are dispatched from police headquarters and the patrol districts consist of 83 patrol beats, which include 357 patrol beat building blocks.[56]

Parks

The nearest City of San José park facility is River Glen Park located about 0.7 miles from the project site on Parkside Avenue, and provides playgrounds, horseshoe pits, and volleyball, tennis, and basketball courts. Lincoln Glen Park is also located near the site approximately 1.5 miles to the southwest at Curtner and Radio Avenues. This small community park contains a playground, tot lot, water spray area, green space, and picnic tables.

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

Schools

The project site is located within the San José School District for grades K-12. The primary public schools serving the project area are Galarza Elementary School, Willow Glen Middle School, and Willow Glen High School. The amount of proposed development represents a small fraction of the total growth identified in the General Plan.

Libraries

The San José Public Library (SJPL) system is the public library system that serves the project site. The SJPL has 25 branches located throughout the City. The nearest SJPL library facility is the Willow Glen Library, located at 1157 Minnesota Avenue, about a mile west of the project site.

3.15.2 Impacts and Mitigation

3.15.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to public services would be considered significant if the project would:

[56] http://www.sjpd.org/bfo/#:~:text=The%20San%20Jose%20Police%20Department,on%20a%2024%2Dhour%20basis.&text=Each%20division%20is%20commanded%20by%20a%20Police%20Captain.

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

a) Fire Protection;

b) Police Protection;

c) Schools;

d) Parks; or

e) Other Public Facilities.

3.15.2.2 *Project Impacts*

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

a) **Fire protection?**

The project proposes to redevelop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for fire protection services. The project site, however, is currently served by the SJFD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD from meeting their service goals and would not require the construction of new or expanded fire facilities. In addition, the project would be constructed in accordance with current building and Fire codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the proposed residential use would not significantly impact fire protection services or require the construction of new or remodeled facilities.

The General Plan EIR concluded that, with the buildout of the General Plan, additional fire staff and equipment may be required to adequately serve a larger population, but no new fire stations would be required other than those already planned. Periodic operation and capital improvements may be required for fire protection services, but those improvements would not result in significant environmental impacts. **Less Than Significant Impact**.

b) **Police protection?**

The project proposes to redevelop the site, which would intensify the use of the site and generate additional occupants in the area. This would result in an incremental increase in the demand for police protection services. The project site, however, is currently served by the SJPD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJPD from meeting their service goals and would not require the construction of new or expanded fire facilities.

In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety.

The General Plan EIR concluded that the buildout under the General Plan could require new police facilities, which will require supplemental environmental review but are not anticipated to result in significant, adverse environmental impacts. Periodic operation and capital improvements may be required for police services, but those improvements would not result in significant environmental impacts.

Finally, the project applicant will consult with the SJPD during final project design to assure appropriate security measures are incorporated. Therefore, the proposed development would not significantly impact police protection services or require the construction of new or remodeled facilities. **Less Than Significant Impact**.

c) **Schools?**

The project proposes to redevelop the site with residential uses, which would potentially generate new students.[57] The project site is currently served by the San José Union School District (SJUSD). The project, by itself, would not preclude the SJUSD from meeting their service goals and would not require the construction of new or expanded schools. In addition, in accordance with California Government Code Section 65996, the developer would be required to pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the proposed project. Development fees for SJUSD are currently set at a base-level of $3.48/sq. ft. of new residential development. **Less Than Significant Impact**.

d) **Parks?**

The City's Parkland Dedication Ordinance and Park Impact Ordinance require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. The amount of proposed development represents a small fraction of the total growth identified in the General Plan. However, the project would be required to make a payment of in-lieu fees, by generating increase population that would utilize park services. The project, by itself, would not require the construction of new or expanded parks, resulting in less than significant impact. **Less Than Significant Impact**.

e) **Other public facilities?**

Although the project would incrementally increase residential development and population growth, the proposed 62 units would not require the construction or expansion of additional public facilities or libraries. The project is consistent with the General Plan designation for the site; the General Plan EIR concluded that development allowed under the General Plan would be adequately served by existing and planned library facilities. **Less Than Significant Impact.**

Conclusion: All project-level impacts associated with public services would be less than significant.

[57] SJUSD no-longer posts multi-unit rates, rather, the developer is directed to contact the District for an assessment of fees.

3.16 Recreation

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

State

Assembly Bill 1191 and 1359 – Quimby Act

The Quimby Act, which is within the Subdivision Map Act, authorizes the legislative body of a city or county to require the dedication of land or impose fees for park or recreational purposes as a condition to the approval of a tentative or parcel subdivision map, if specified requirements are met. On September 8th, 2015 Governor Brown signed the AB 1359, the purpose of which was to amend the existing Quimby Act to authorize local governments to spend Quimby Act funds beyond parks that serve the development from where the funds were sourced. To reallocate the funds in this manner, AB 1359 requires the legislative body to hold a public hearing before using fees as prescribed in the bill.

Subsequently, on September 8th, 2015 Governor Brown signed the AB 1191, the purpose of which was to amend the existing Quimby Act to authorize the legislative bodies of cities and counties to require land dedication or to impose fees for future park or recreational purposes as a required condition of approval of a tentative or parcel subdivision map. AB 1191 also eliminated the requirement for a local municipality to repay any unspent funds accrued through the Quimby Act after a five-year period resulting from such fees.

Local

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance and Park Impact Ordinance, which require residential developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks.

Greenprint 2009 Update

The Greenprint is a strategic plan which was developed by the City to help guide future expansion of parks, recreational facilities, and community services over a 20-year period. The Greenprint creates a comprehensive policy and program to support daily and long-term decision making as pertaining to capital projects, recreation programs, and services. In 2009, the Greenprint Plan was updated with the intention of bringing the document into alignment with the 2020 General Plan. The 2009 update was then written into the 2040 General Plan.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Recreation Policies	
Policy PR-1.1	Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.
Policy PR-1.2	Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.
Policy PR-1.3	Provide 500 SF per 1,000 population of community center space.
Policy PR-2.4	To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a 3/4 mile radius of the project site that generates the funds.
Policy PR-2.5	Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

3.16.1.2 *Existing Conditions*

The nearest City of San José park facility is River Glen Park, an 9.2-acre park that provides a sand volleyball court, tennis courts, basketball courts, playgrounds, and other features. The park is located about 0.7 miles west of the project site on Parkside Avenue.

3.16.2 Impacts and Mitigation

3.16.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to recreation would be considered significant if the project would:

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

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

3.16.2.2 *Project Impacts*

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

The proposed project would generate population that would utilize nearby parks, however, the project, by itself, would not physically deteriorate or require the construction or expansion of park facilities. The Park Dedication Ordinance and Park Impact Ordinance require residential

developers to dedicate public park land or pay in-lieu fees (or both) to compensate for the increase in demand for neighborhood parks. **Less Than Significant Impact**.

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

The project proposes approximately 6,166 square feet of community open space for the residents' use in common garden and patio areas and approximately 6,552 square feet of private open space in the form of balconies. The outdoor amenities would not result in a significant impact to recreational facilities, since they are private and contained on-site. In addition, the increase in park demand from the project would not require the construction or expansion of recreational facilities that could have an adverse physical effect on the environment due to the small size of the 62-unit residential project. **Less than Significant Impact**

Conclusion: All project-level impacts associated with recreation would be less than significant.

3.17 Transportation

The following discussion is based on a transportation analysis prepared for the project by Hexagon Transportation Consultants (March 2020). This study is contained in Appendix F.

The transportation analysis was conducted to determine the potential transportation impacts related of the project based on the standards and methodologies set forth the City of San José's Transportation Analysis Handbook 2018, the Santa Clara Valley Transportation Authority (VTA) Congestion Management Program's Transportation Impact Guidelines (October 2014), and CEQA. Based on the City of San José's Transportation Policy and Transportation Analysis Handbook 2018, the transportation study performed a CEQA VMT analysis and a supplemental Local Transportation Analysis (LTA).

3.17.1 Environmental Setting

3.17.1.1 *Regulatory Framework*

State

Regional Transportation Plan

The MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, state, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a vehicle miles traveled metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires the replacement of automobile delay—described solely by level of service or similar measures of vehicular capacity or traffic congestion—with VMT as the recommended metric for determining the significance of transportation impacts. The Governor's Office of Planning and Research (OPR) approved the CEQA Guidelines implementing SB 743 on December 28, 2018. Local jurisdictions were required to implement a VMT policy by July 1, 2020. SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Projects located within 0.50 mile of transit are generally be considered to have a less than significant transportation impact based on OPR guidance.

Regional and Local

Final Plan Bay Area 2040

The MTC and ABAG adopted the Final Plan Bay Area 2040 in July 2017. The Final Plan Bay Area 2040 is an updated long-range Regional Transportation Plan and Sustainable Communities Strategy for the nine-county San Francisco Bay Area. This plan focuses on the following strategies:

- Forecasting transportation needs through the year 2040.
- Preserving the character of our diverse communities.
- Adapting to the challenges of future population growth.

This effort grew out of the California Sustainable Communities and Climate Protection Act of 2008 (California Senate Bill 375, Steinberg), which requires each of the state's 18 metropolitan areas – including the Bay Area – to reduce greenhouse gas emissions from cars and light trucks. Plan Bay Area 2040 is a limited and focused update of the region's previous integrated transportation and land use plan, Plan Bay Area, adopted in 2013.

Santa Clara County Congestion Management Program

In accordance with California Statute (Government Code 65088), Santa Clara County has established a Congestion Management Program (CMP). The intent of the CMP legislation is to develop a comprehensive transportation improvement program among local jurisdictions to reduce traffic congestion and improve land use decision-making and air quality. VTA serves as the Congestion Management Agency (CMA) for Santa Clara County and maintains the County's CMP.

Council Policy 5-1 Transportation Analysis

In alignment with SB 743 and the City's goals in the Envision San José 2040 General Plan, the City has adopted a new "Transportation Analysis Policy" (Council Policy 5-1) to replace the former Transportation Level of Service Policy (Council Policy 5-3). The new policy establishes the thresholds for transportation impacts under CEQA based on VMT rather than intersection LOS. VMT is the total miles of travel by personal motorized vehicles from a project in a day. The intent of this change in policy is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway capacity to a reduction in vehicle emissions and the creation of multimodal networks that support integrated land uses.[58] According to the policy, an employment facility (e.g., office, R&D) or a residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or existing average citywide VMT per capita respectively. 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 VMT per employee. 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.

[58] The new policy took effect on March 29, 2018.

The policy also requires preparation of an LTA to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, and site access and circulation. The LTA also addresses CEQA issues related to pedestrian, bicycle access, and transit.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact. Under Policy 5-1, the screening criteria are as follows:

1. Small Infill Projects,
2. Local-Serving Retail,
3. Local-Serving Public Facilities,
4. Transit Supportive Projects in Planned Growth Areas with Low VMT and High-Quality Transit,
5. Restricted Affordable, Transit Supportive Residential Projects in Planned Growth Areas with High Quality Transit;
6. Transportation Projects that reduce or do not increase VMT.

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

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating transportation impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Transportation Policies	
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.4	Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-1.5	Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.
Policy TR-1.6	Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Envision San José 2040 Relevant Transportation Policies	
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-5.3	Development projects' effects on the transportation network will be evaluated during the entitlement process and will be required to fund or construct improvements in proportion to their impacts on the transportation system. Improvements will prioritize multimodal improvements that reduce VMT over automobile network improvements. Downtown. Downtown San José exemplifies low-VMT with integrated land use and transportation development. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, Downtown projects shall support the long-term development of a world class urban transportation network.
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.
Policy TR-8.8	Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.
Policy TR-9.1	Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

3.17.1.2 *Existing Conditions*

Existing Roadway Network

Regional access to the study area is provided by SR 87 and I-280. Local access to the p area is provided via Almaden Road, Almaden Expressway, Curtner Avenue, Alma Avenue, Bird Avenue, and Willow Glen Way. These facilities are shown in Figure 18 and described below.

State Route (SR) 87 is a six-lane, north-south freeway in the vicinity of the site. It extends south to SR 85 and US 101 and north to I-280 and US 101 in San José. Access to and from the site from SR 87 is provided via its partial interchanges at Lelong Street/Alma Avenue and Almaden Expressway, and its full interchange at Curtner Avenue.

I-280 is an eight-lane freeway in the vicinity of the site. It extends northwest to San Francisco and east to King Road in San José, at which point it makes a transition into I-680 to Oakland. Access to and from northbound I-280 to the site is provided via SR 87.

Almaden Road is a two- to four-lane north-south roadway that extends from Almaden Avenue in the north to Almaden Expressway in the south, where it makes a transition into Ironwood Drive. In the project vicinity, Almaden Road has a posted speed limit of 35 mph with sidewalks on portions of the eastern side of the road and on-street parking on both sides of the street and no bike lanes. Almaden Road runs along the east project frontage and provides direct access to the project site via one driveway.

Almaden Expressway is a two- to six-lane north-south expressway with four lanes in the vicinity of the project site. It extends from Alma Avenue in the north to Harry Road in the south. In the project vicinity, the posted speed limit on Almaden Expressway is 45 mph. Almaden Expressway provides access to the project site via Almaden Road and Curtner Avenue.

Alma Avenue is a three- to five-lane east-west roadway in the vicinity of the project site. It extends from Senter Road in the east and merges with Minnesota Avenue in the west. In the project vicinity, Alma Avenue has posted speed limit of 35 mph with sidewalks and bike lanes available between Whitehurst Court and Belmont Way. Alma Avenue Provides access to the project site via Almaden Expressway.

Bird Avenue is a two- to six-lane north-south roadway that extends southward from San Carlos Street to Malone Road. North of San Carlos Street, Bird Avenue makes a transition to Montgomery Street. In the project vicinity, Bird Avenue has a posted speed limit of 35 mph with sidewalks and on-street parking on both sides of the street and bike lanes. Access to the project site from Bird Avenue is provided via Willow Glen Way and Almaden Road.

Curtner Avenue is a two- to four-lane east-west roadway that extends southward from Camden Avenue east to Monterey Road. East of Monterey Road, Curtner Avenue makes a transition to Tully Road. In the project vicinity, Curtner Avenue has a posted speed limit of 35 mph with sidewalks and on-street parking on both sides of the street (along most segments) and bike lanes. Access to the project site from Curtner Avenue is provided via Almaden Road.

Willow Glen Way is a two-lane east-west roadway that extends from Newport Avenue in the west to Almaden Road in the east. In the project vicinity, Willow Glen Way has a posted speed limit of 25 mph with sidewalks and on-street parking on both sides of the street. Access to the project site from Willow Glen Way is provided via Almaden Road.

Existing Pedestrian, Bicycle and Transit Facilities

Pedestrian Facilities. Pedestrian facilities near the project site consist mostly of sidewalks along the streets in the study area. Sidewalks are found along both sides of Almaden Road between Willow Glen Way and Stone Court. South of the project site, sidewalks are found along only portions of the eastern side of Almaden Road. A crosswalk with ADA-compatible ramps and push buttons are located along the south leg of the Almaden Road and Willow Glen Way intersection. There are no crosswalks provided on the north or west legs of the Almaden Road and Willow Glen Way intersection.

Source: Hexagon Transportation Consultants, October 2019

Roadway Network & Study Area

Almaden Villas
Draft EIR

Figure
18

Bicycle Facilities. Class I bikeways are bike paths that are physically separated from motor vehicles and offer two-way bicycle travel on a separate path. The Highway 87 Bikeway is located in the project area and is a continuous multi-purpose pathway for pedestrians and bicycles that is separated from motor vehicles. It begins at Willow Street in the north and continues to Unified Way near Curtner Avenue, all alongside Highway 87. North of Willow Street, the trail continues to Downtown San José and is known as the Guadalupe River Trail. The nearest access point to the Guadalupe River Trail/Highway 87 Bikeway system is located at the Tamien LRT and Caltrain stations, approximately 1.1-mile northeast of the project site.

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

- Curtner Avenue, between Leigh Avenue to Monterey Road
- Bird Avenue, between Malone Road and Minnesota Avenue; between Willow Street and Virginia Street
- Vine Street, north of Alma Avenue
- Almaden Avenue, north of Alma Avenue
- Minnesota Avenue, west of Lelong Street

Class III bikeways are bike routes and only have signs to help guide bicyclists on recommended routes to certain locations. In the vicinity of the project site, the following roadway segments are designated as bike routes.

- Bird Avenue, between Minnesota Avenue and Willow Street
- Malone Road, between Lincoln Avenue and Bird Avenue

Although none of the residential streets near the project site provide bike lanes or are designated as bike routes due to their low traffic volumes, many of them are conducive to bicycle usage.

Public Transit Services. Existing transit services in the study area are provided by the Santa Clara Valley Transportation Authority VTA and Caltrain. The Tamien light rail transit (LRT) and Caltrain stations are located between Lelong Street and Lick Avenue, north of Alma Avenue. The Curtner LRT station is located south of Curtner Avenue, east of Canoas Garden Avenue, approximately 1.2 miles south of the project site. The LRT and Caltrain services provide access to the Diridon Transit Center, located approximately two miles north of the project site at Cahill Street. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center.

The nearest bus stops to the project site are located at the intersections of Bird Avenue/Minnesota Avenue (Local Route 56), Lincoln Avenue/Willow Glen Way (Local Route 64A), and Almaden Road/Curtner Avenue (Frequent Route 26). Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center.

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on an average weekday. Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San José, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn.

3.17.2 Impacts and Mitigation

3.17.2.1 *Traffic Study Methodologies*

CEQA VMT Analysis. To determine whether a project would result in CEQA transportation impacts related to VMT, the City has developed the San José VMT Evaluation Tool (evaluation tool) to streamline the analysis for residential, office, and industrial projects with local traffic. For larger projects with regional traffic, the City's Travel Demand Model can be used to determine project VMT. Because the proposed project is small and would generate local traffic, the evaluation tool is used to estimate the project VMT and determine whether the project would result in a significant VMT impact.

Based on the APN of a project, the evaluation tool identifies the existing average VMT per capita and VMT per employee for the area. Based on the project location, type of development, project description, and proposed trip reduction measures, the evaluation tool calculates the project VMT. Projects located in areas where the existing VMT is above the established threshold are referred to as being in "high-VMT areas." Projects in high-VMT areas are required to include a set of VMT reduction measures that would reduce the project VMT to the extent possible.

The evaluation tool evaluates a list of selected VMT reduction measures that can be applied to a project to reduce the project VMT. There are four strategy tiers whose effects on VMT can be calculated with the evaluation tool:

1. Project characteristics (e.g. density, diversity of uses, design, and affordability of housing) that encourage walking, biking and transit uses.
2. Multimodal network improvements that increase accessibility for transit users, bicyclists, and pedestrians,
3. Parking measures that discourage personal motorized vehicle-trips, and
4. Transportation demand management (TDM) measures that provide incentives and services to encourage alternatives to personal motorized vehicle-trips.

The first three strategies – land use characteristics, multimodal network improvements, and parking – are physical design strategies that can be incorporated into the project design. TDM includes programmatic measures that aim to reduce VMT by decreasing personal motorized vehicle mode share and by encouraging more walking, biking, and riding transit. TDM measures should be enforced through annual trip monitoring to assess the project's status in meeting the VMT reduction goals.

The VMT threshold of significance is 15% below the existing average area VMT. The VMT impact threshold is 15% below the regional average for office developments and 15% below the citywide average for residential developments.

Local Transportation Analysis (LTA). An LTA was prepared for the project to address transportation operational issues that may arise due to a development project, evaluates the effects of the project on transportation, access, circulation, and related safety elements in the proximate area of the project, and supplements the VMT analysis but is not considered a CEQA issue as of 2019 due to changes in the CEQA guidelines that removed level of service analysis as a threshold of significance.

As part of the LTA, a project is required to conduct an intersection operations analysis if the project is expected to add 10 vehicle trips per hour per lane to a signalized intersection that meets the parameters outlined in the City's *Transportation Analysis Handbook (2018).*

3.17.2.2 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to traffic and transportation would be considered significant if the project would:

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

b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b);

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

d) Result in inadequate emergency access.

3.17.2.3 *Project Impacts*

Baseline Conditions – COVID

The transportation analysis was prepared using information reflective of pre-COVID conditions, prior to the enaction of State and local shelter-in-place orders. All traffic data, analysis, and documentation for the project were based on pre-COVID conditions. Scoping for the transportation analysis was conducted in June through August of 2019, and the analysis was completed in October 2019. The 2020 report update did not include additional analysis. The count data used in the study for the LOS analysis was collected in 2019. The VMT baseline analysis was founded on 2015 conditions. The transportation analysis, when compared to current COVID conditions, represents a conservative evaluation with regards to VMT and traffic volumes.

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

The project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities as described below. The results of the VMT analysis and compliance with the City's Transportation Analysis Policy are addressed in b) below.

Pedestrian, Bicycle, Transit Impacts

Pedestrian Facilities. The network of pedestrian facilities is discontinuous in the general vicinity of the project site. Curb ramps at the northwest and southwest corners of the Almaden Road and Malone Road intersection (located less than ½-mile from the project site) are not

ADA-compatible. Additionally, there are currently no sidewalks available along the following roadway segments:

- West side of Almaden Road, between the north project boundary and Malone Road (including along the east project frontage)
- East side of Almaden Road, between Willow Glen Way and 250 feet south of Willow Glen Way
- East side of Almaden Road, between New Street and 250 feet north of New Street
- Both sides of Almaden Road, between Stone Court and Almaden Expressway
- Southeast corner of the Guadalupe Avenue/Willow Glen Way intersection (frontage of Willow Glen Way Market)

Pedestrian generators in the project vicinity include commercial areas and transit stops along Curtner Avenue, Alma Avenue, Tamien Station and Curtner Station. Access to Galarza Elementary School would be provided along Willow Glen Way. However, a 135-foot portion of sidewalk (and ADA compatible ramp) is missing along the south side of Willow Glen Way, east of Guadalupe Avenue and along the north frontage of Willow Glen Way Market. In addition, some of the ramps along cross streets of Willow Glen Way (including Creek Drive and Arbor Drive) are not ADA compatible. Willow Glen Middle School and Willow Glen High School are located along the Cottle Avenue, approximately 1.5 miles from the project site. Access to these schools via the shortest route along Almaden Road, south of the project, is limited due to missing sidewalks along portions of both sides of Almaden Road between the project site and Malone Road. Continuous pedestrian access to the Tamien LRT and Caltrain stations is not provided via Almaden Road due to missing sidewalks on both sides of Almaden Road between Stone Court and Almaden Expressway.

Bicycle Facilities. There are currently no existing bicycle facilities in the immediate area of the project site. However, there are bicycle facilities in the area surrounding the project site. Additionally, the City is proposing to install buffered bike lanes along Almaden Road.

The San José Bike Plan 2020 indicates that a variety of bicycle facilities are planned in the study area, some of which would benefit the project and adhere to the goals of the Envision 2040 General Plan. Of the planned facilities, a class II bike lane is planned along Almaden Road, along its entire extent. The project may be required to make a fair-share contribution towards the bike lane installation.

Additionally, the Guadalupe River Trail is proposed to be extended from its current terminus at Willow Street south to Chynoweth Avenue. In the project vicinity, access to the trail would be provided via trailheads at Almaden Road, approximately 800 feet south of the project site, and at Willow Glen Way approximately 900 feet west of Almaden Road. The extension would provide a direct route for bicycle-users and pedestrians from the project site to Tamien Station and Downtown San José.

The combination of existing and planned bike facilities in the project vicinity should be adequate to provide bicyclists with connections to other bicycle facilities in the City. The City's General Plan identifies the bicycle commute mode split target as 15 percent or more by the year 2040. This calculates to approximately two and three new bicycle trips during the AM and

PM peak hours, respectively. This level of bicycle mode share is a reasonable goal for the project.

Transit Services. The transit services in the project area are presented in the Environmental Setting above (see also Appendix F). The transportation study concluded that the new transit trips generated by the project are not expected to create demand in excess of the transit service that is currently provided.

Site Access. Site access was evaluated by Hexagon to determine the adequacy of the site's access points. On-site vehicular circulation was reviewed in accordance with generally accepted traffic engineering standards and transportation planning principles. This evaluation was part of the LTA conducted for the project, which recommended operational measures to assure adequate access. Proposed parking was also determined to be adequate.

General Plan. The project is consistent with the General Plan goals and policies because it is in close proximity to the Tamien LRT and Caltrain Station that is located within one mile from the project site between Lelong Street and Lick Avenue, north of Alma Avenue. The Caltrain and LRT lines provide access to the Diridon Transit Center, located approximately two miles north of the project site. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center. The project site is not located in any Urban Village or Specific Plan areas.

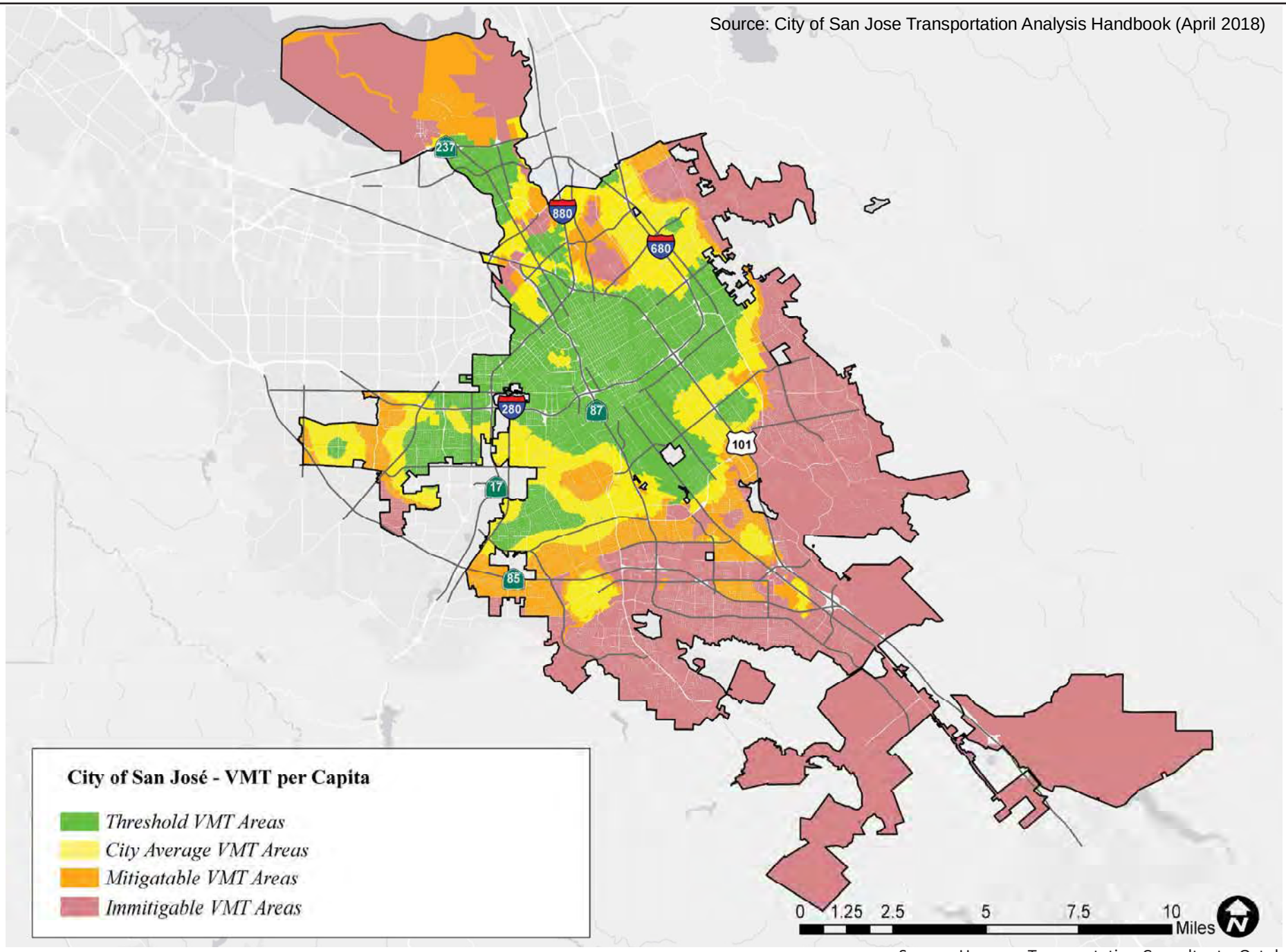
The VMT analysis addressed in b) below was prepared consistent with the City's Council Policy 5-1 Transportation Analysis.

Based on the discussion above, the project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. **Less Than Significant Impact**.

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

A VMT analysis was prepared for the project in accordance with the City's methodologies. The results of the VMT analysis are summarized below. The VMT heat maps are presented in Figures 19 through 21.

The City's Transportation Analysis Handbook identifies screening criteria that determines whether a CEQA transportation analysis would be required for development projects. The criteria are based on the type of project, characteristics, and/or location. If a project meets the City's screening criteria, the project is expected to result in less than significant VMT impacts and a detailed CEQA VMT analysis is not required. The project site is not located within a Planned Growth Area, per the City's General Plan; therefore, the project would not meet the VMT screening criteria and a detailed CEQA transportation analysis was conducted to evaluate the project's effects on VMT.

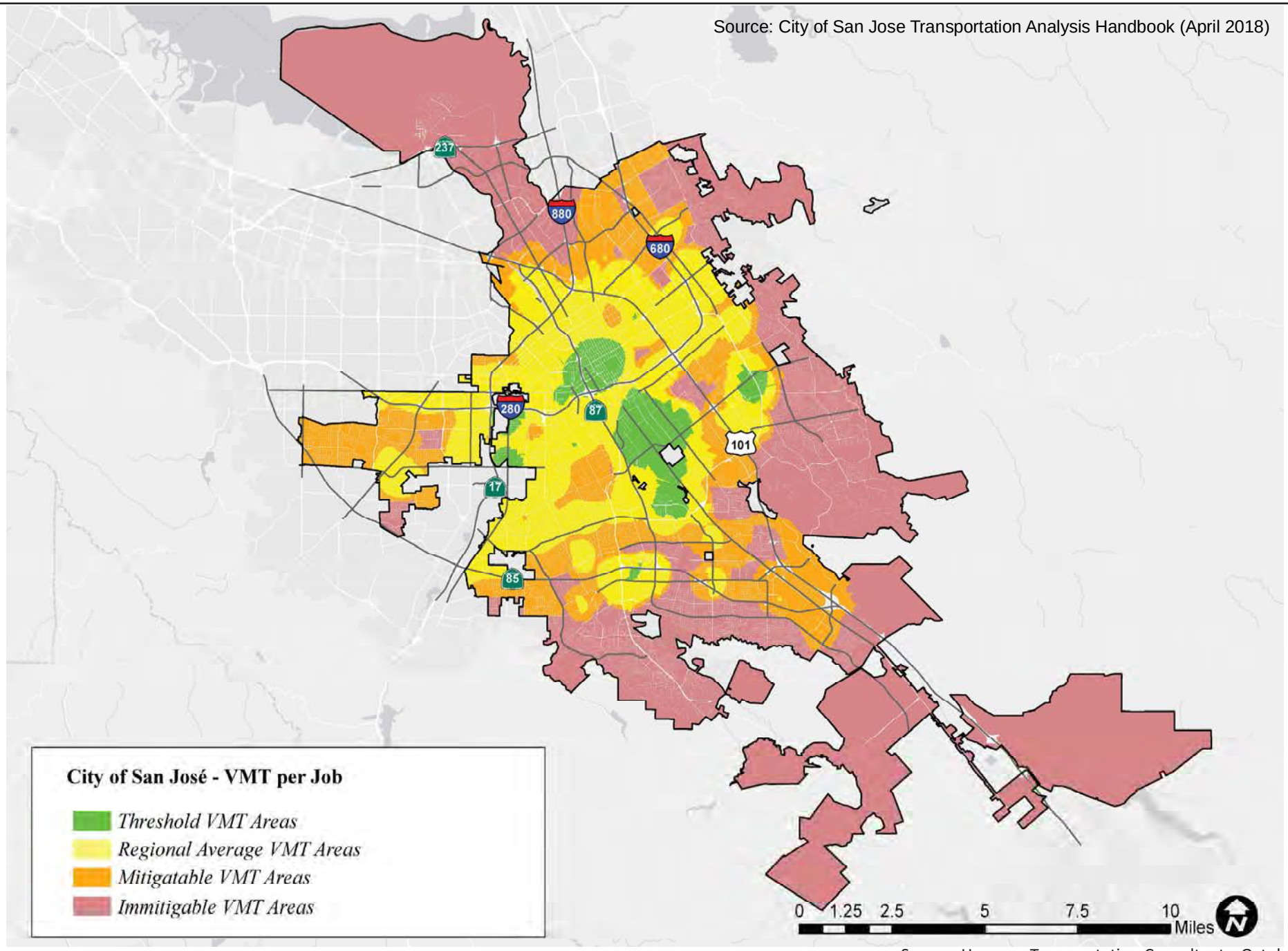


Source: Hexagon Transportation Consultants, October 2019

VMT per Capita Heat Map in San Jose

Almaden Villas
Draft EIR

Figure
19

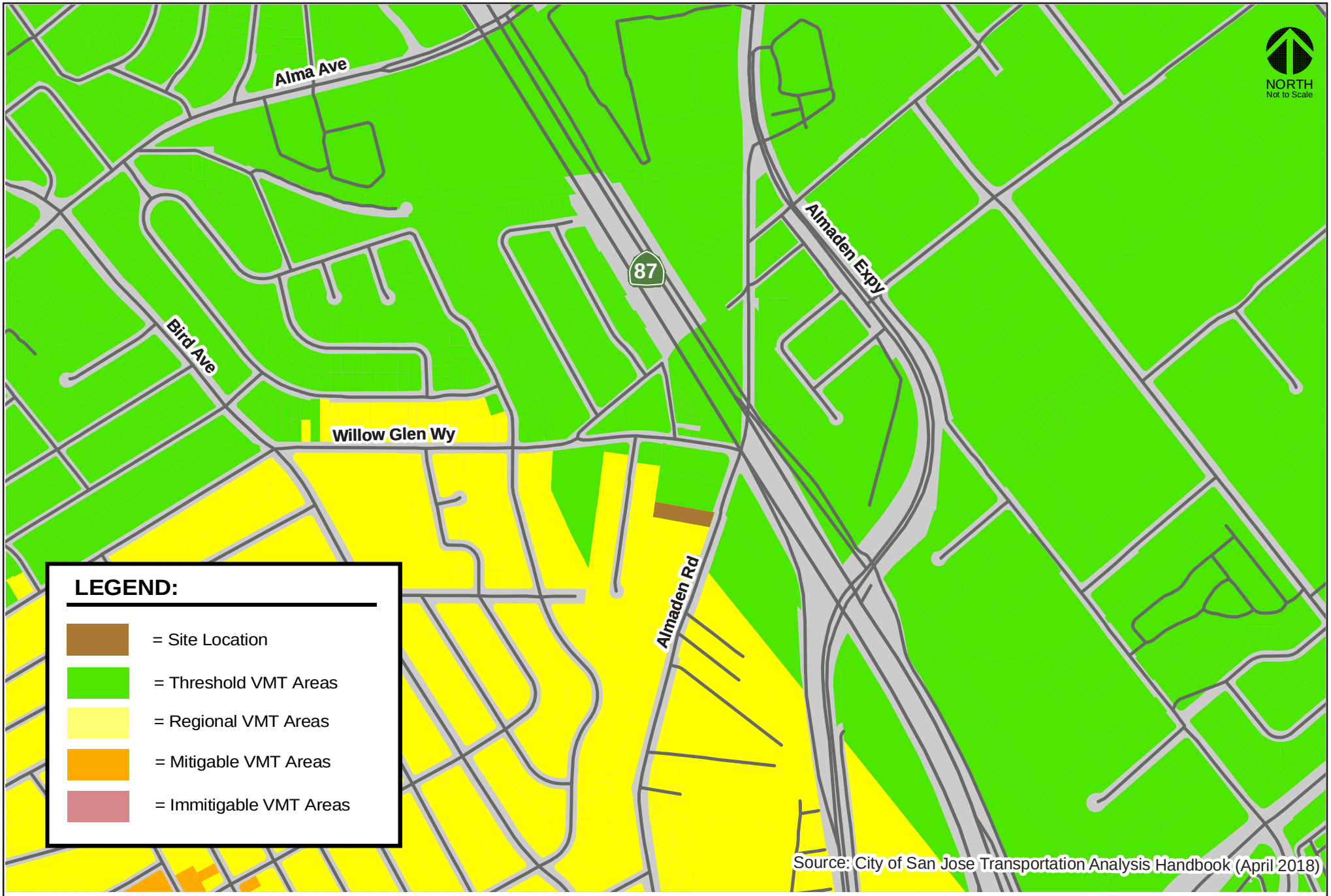


Source: Hexagon Transportation Consultants, October 2019

VMT per Job Heat Map in San Jose

Figure 20

Almaden Villas
Draft EIR



Source: Hexagon Transportation Consultants, October 2019

VMT per Capita Heat Map in Project Area

Figure 21

Almaden Villas
Draft EIR

CEQA uses the VMT metric to evaluate a project's transportation impacts by comparing project trips against the VMT thresholds of significance established in the Transportation Analysis Policy. The San José VMT Evaluation tool was used to estimate the project VMT, based on the project location, type of development, project description, and proposed trip reduction measures. The project is evaluated as a residential use in the evaluation tool. The threshold of significance for residential development was applied for the VMT analysis. Projects that include residential uses are said to create a significant adverse impact when the estimated project-generated VMT exceeds the existing citywide average VMT per capita minus 15 percent or existing regional average VMT per capita minus 15 percent, whichever is lower.

Currently, the reported citywide average is 11.94 VMT per capita, which is less than the regional average. Therefore, a significant impact threshold of 10.12 VMT per capita is currently used for residential uses.

The results of the VMT evaluation, using the City's VMT evaluation Tool, indicate that the proposed project is projected to generate 9.98 VMT per capita, which would not exceed the established VMT impact threshold of 10.12 VMT. Therefore, the proposed project would not result in an impact on the transportation system based on the City's VMT impact criteria.

Cumulative VMT Impacts

Projects must demonstrate consistency with the Envision San José 2040 General Plan to address cumulative impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan goals and policies. If a project is determined to be inconsistent with the General Plan, a cumulative impact analysis is required per the City's Transportation Analysis Handbook. The project is consistent with the applicable General Plan goals and policies identified in the regulatory setting section for the following reasons:

- The project site is in close proximity to the Tamien LRT and Caltrain station that is located within one mile from the project site between Lelong Street and Lick Avenue, north of Alma Avenue. The Caltrain and LRT lines provide access to the Diridon Transit Center, located approximately two miles north of the project site. Connections between local and regional bus routes, light rail lines, and commuter rail lines are provided within the Diridon Transit Center.

In summary, the project would be consistent with the General Plan and considered part of the cumulative solution to meet the General Plan's long-range transportation goals. Therefore, the project would have a less than significant cumulative impact on VMT. **Less Than Significant Impact**.

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

The project would not substantially increase hazards due to a design feature or incompatible uses. Adequate sight distance will be required at the project driveway along Almaden Road. Adequate sight distance (sight distance triangles) at the project driveway will be provided in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. Final project design would be reviewed by City Departments including

Public Works and Transportation to ensure design is consistent with the Municipal Code for access, circulation, and operation. **Less Than Significant Impact**.

d) **Would the project result in inadequate emergency access?**

The project does not propose any fire access roads on-site. The vertical clearance of the ground-floor level is 15 feet, however the clearance at the entrance may be lower at the entrance gate. Therefore, all emergency vehicles would park along the east project frontage to access the site. The project would be required to conform to all City and Fire Department requirements regarding emergency access. **Less Than Significant Impact**.

Conclusion: All project-level impacts would be reduced to a less-than-significant level with incorporation of identified mitigation.

3.17.2.4 *Non-CEQA Effects*

Senate Bill 743, the revised 2019 CEQA Guidelines, and Council Policy 5-1 promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Due to these requirements, the VMT metric promotes those statutory purposes better than level of service and was determined to be the significance metric under CEQA. An LTA was prepared for the project to address transportation operational issues of the project, and the effects of the project on transportation, access, circulation, and safety elements in the project area. These operational issues are provided for informational purposes only.

The project would increase traffic to/from the site. Vehicle trips that would be generated by the project were estimated using the trip generation rates published in the Institute of Transportation Engineers (ITE) Trip Generation Manual,10th Edition (2017), for "Multi-family Housing (Mid-Rise)" (Land Use Code 221).

Based on the 2018 San José guidelines, the project qualifies for a location-based adjustment. The location-based adjustment reflects the project's vehicle mode share based on the place type in which the project is located per the San José Travel Demand Model. The project's place type was obtained from the San José VMT Evaluation Tool. Based on the Tool, the project site is located within a suburban area with multi-family housing. A suburban area with multifamily housing is characterized as an area with average accessibility and vacancy, and low single-family housing stock. Therefore, the baseline project trips were adjusted to reflect an urban low-transit mode share. Urban low-transit is characterized as an area with good accessibility, low vacancy, and middle-aged housing stock. Residential developments within suburban areas with multi-family housing have a vehicle mode share of 88%. Thus, a 12% reduction was applied to the trips estimated to be generated by the proposed project.

Based on the ITE rates with trip adjustments and reductions, the proposed project would generate a total of 298 daily vehicle trips, with 20 trips occurring during the AM peak hour and 26 trips occurring during the PM peak hour. The project trip generation estimates are presented in Table 22.

Table 22
Project Trip Generation

Land Use	Size	Daily		AM Peak Hour		PM Peak Hour	
		Rate	Trips	Rate	Total	Rate	Total
Proposed Uses							
Multi-family Housing (Mid-Rise)	64 units*	5.44	348	0.360	23	0.44	29
Location-Based Reduction: Urban Low-Transit[1] (88%)			*-42*	*--*	*-3*	*--*	*-3*
VMT Reduction[2]			*-8*		*0*		*0*
New Project Trips			**298**		**20**		**26**

Source: ITE Trip Generation Manual, 10th Edition, 2017; Land Use Code 221.
[1] The project site is located within a suburb with multifamily housing based on the City of San José VMT Evaluation Tool (February 29, 2019). The location-based vehicle mode shares are obtained from Table 6 of the City of San José's Transportation Analysis Handbook (April 2018). The trip reductions are based on the percent of mode share for other modes of travel beside vehicle. The percentage of vehicle mode share for the project is 88%.
[2] VMT per capita for residential use. Existing and project VMTs were estimated using the City of San José VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-capita is equivalent to one percent reduction in peak-hour vehicle trips.
* The project has been reduced slightly (by two units) since completion of the technical studies for this project, which evaluated 64 units. This increase does not change the results of the traffic study, which represents a conservative analysis.

The results of the level of service analysis are presented in Table 23. As shown in Table 23, the intersection of Almaden Road and Willow Glen Way is projected to operate at LOS A during the AM peak hour under background and background plus project conditions. The intersection of Almaden Expressway and Almaden Road is projected to operate at LOS C during the AM peak hour under background and background plus project conditions.

The added trips to the intersection of Almaden Road and Willow Glen Way as a result of the project would not cause the intersection's critical-movement delay to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.01 or more during the AM peak hours. Based on City of San José's guidelines, the project would not cause an adverse effect on operations at this intersection.

Freeway Segment Analysis

Per CMP technical guidelines, freeway segment level of service analysis shall be conducted on all segments to which the project is projected to add one percent or more to the segment capacity. Since the project is not projected to add one percent to any freeway segments in the area, freeway analysis for the CMP was not required.

Table 23
Intersection Level of Service Results

#	Intersection	LOS Standard	Peak Hour	Count Date	Existing		Background		Background Plus Project			
					Avg. Delay	LOS	Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C
1	Almaden Road and Willow Glen Way	D	AM	09/05/19	8.4	A	8.6	A	8.5	A	0.0	0.007
			PM	09/05/19	11.3	B	11.7	B	11.7	B	0.0	0.006
2	Almaden Expressway and Almaden Road	D	AM	09/05/19	20.7	C	21.0	C	21.5	C	0.4	0.005
			PM	09/05/19	17.1	B	17.5	B	17.8	B	0.2	0.004

Bold indicates unacceptable level of service.

3.18 Tribal Cultural Resources

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached. Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources,[59] or
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- Resources determined by the lead agency to be TCRs.

AB 52 notification and consultation applies to projects for which a Notice of Intent or Notice of Availability is issued after the effective date of AB 52 in 2015. Notification and consultation are not required for projects covered by a prior EIR or Mitigated Negative Declaration (MND) that either predates AB 52 or that has already complied with AB 52.

The Native American Heritage Commission

The NAHC was created by statute in 1976, is a nine-member body appointed by the Governor to identify and catalog cultural resources (i.e., places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands) in California. The Commission is responsible for preserving and ensuring accessibility of sacred sites and burials, the disposition of Native American human remains and burial items, maintaining an inventory of Native American sacred sites located on public lands, and reviewing current administrative and statutory protections related to these sacred sites.

[59] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a nine-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision (c) (Public Resources Code, Section 5024.1 (a)(b)).

Local

General Plan

The Envision San José 2040 General Plan includes the following tribal cultural resource policies applicable to the Proposed Project:

Envision San José 2040 Relevant Tribal Cultural Resources Policies	
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

3.18.1.2 *Existing Conditions*

The project site is located east of the Guadalupe Creek, suggesting a moderate to high potential for Native American resources. The archaeological review concluded that the project site has a moderate to high potential for Native American resources within the project area, especially buried resources.

In 2017, the City sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The tribal representatives for tribes known to have traditional lands and cultural places within the City of San José were sent the Notice of Preparation for the proposed project in October 2020 in compliance with AB 52.

3.18.2 Impacts and Mitigation

3.18.2.1 *Thresholds of Significance*

a) For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to tribal cultural resources would be considered significant if the project would cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

   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

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 America Tribe.

3.18.2.2 *Project Impacts*

a) **For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to tribal cultural resources would be considered significant if the project would cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:**

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**

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 America Tribe.**

Tribal cultural resources consider the value of a resource to tribal cultural tradition, heritage, and identity, in order to establish potential mitigation and to recognize that California Native American tribes have expertise concerning their tribal history and practices. No tribal cultural resources have been listed or determined eligible for listing in the California Register or a local register of historical resources.

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 preparation of this EIR, no Native American tribes have sent written requests for notification of projects to the City of San José except for those in Coyote Valley (approximately 10 miles south of the site) and downtown San José (about 1,000 feet north of the site). In addition, the City has sent out referral and consultation requests to all applicable tribal representatives for the project on June 24, 2020 and has/has not received as further consultation request. **Less Than Significant Impact**.

Conclusion: The project would have a less than significant impact on tribal resources.

3.19 Utilities and Service Systems

3.19.1 Environmental Setting

3.19.1.1 *Regulatory Framework*

State

Assembly Bill 939

California AB 939 established the California Integrated Waste Management Board (CalRecycle), which required all California counties to prepare Integrated Waste Management Plans. In addition, AB 939 required all municipalities to divert 50 percent of their waste stream by the year 2000.

California Green Building Standards Code

In January 2017, California adopted the most recent version of the California Green Building Standards Code, which establishes mandatory green building standards for new and remodeled structures in California. These standards include a mandatory set of guidelines and more stringent voluntary measures for new construction projects, in order to achieve specific green building performance levels as follows:

- Reduce indoor water use by 20 percent;
- Reduce wastewater by 20 percent;
- Recycle and/or salvage 50 percent of nonhazardous construction and demolition debris; and
- Provide readily accessible areas for recycling by occupant.

Local

Climate Smart San José

Climate Smart San José is a Citywide plan that was adopted by the City Council in 2018 with the intention of reducing air pollution, saving water, and improving quality of life. The Climate Smart Plan was adopted, in part, to keep the City on track to meeting the goals outlined in the Paris Climate Agreement, following withdrawal from that agreement by the federal government. The Climate Smart plan provides guidelines for transitioning to renewable energy sources, increasing walkability and cycling throughout downtown areas, increasing access to public transportation, and focusing new development in areas served by existing infrastructure and close to transit centers.

San José Zero Waste Strategic Plan/Green Vision

The City's Green Vision provides a comprehensive approach to achieving sustainability through technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José facilitate a healthier community and achieve its Green Vision goals, including 75 percent waste diversion by 2013, which has been achieved, and zero waste by 2022.

Council Policy 6-32 Green Building Policy

Council Policy 6-32 "Green Building Policy" for private sector new construction encourages building owners, architects, developers, and contractors to incorporate sustainable building goals early in the building design process. This policy establishes baseline green building standards for new private construction projects and provides a framework for the implementation of these standards. The Policy is also intended to enhance the public health, safety, and welfare of the City's residents, workers, and visitors by encouraging design, construction, and maintenance practices that minimize the use and waste of energy, water, and other resources in the City.

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating utilities and service system impacts from development projects. Policies applicable to the proposed project are presented below.

Envision San José 2040 Relevant Utilities and Service System Policies	
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Action EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at a LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the same area or in coordination with the City's Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.

3.19.1.2 *Existing Conditions*

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

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Regional Wastewater Facility (RWF); sanitary sewer lines maintained by the City of San José
- Water Service: San José Water Company (SJWC)
- Storm Drainage: City of San José
- Solid Waste: GreenTeam of San José (Garbage & Recycling); GreenWaste Recovery (Yard Trimmings)

Existing Water Supply System

Water service to the project site is provided by SJWC. Existing water mains in the project area include a line in Almaden Road. The project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed residential uses.

Groundwater

SJWC draws water from the Santa Clara Valley Subbasin in the north part of Santa Clara County. The basin is 22 miles long and 15 miles wide with an operational storage capacity estimated to be 350,000 acre-feet. Groundwater is a substantial source of water for SJWC. In 2014, groundwater accounted for about 57 percent of SJW's total potable supply.

Surface Water

SJWC has "pre-1914 surface water rights" to raw water in Los Gatos Creek and local watersheds in the Santa Cruz Mountains. Prior to 1872, appropriative water rights could be acquired by simply taking and beneficially using water. In 1914, the Water Code was adopted, grandfathering in all existing water entitlements to license holders. SJWC filed for a license in 1947, and in 1976 was granted a license allowing it to draw 6,240 acre-feet per year (AFY) from Los Gatos Creek. SJWC has since upgraded the collection and treatment system that draws water from this watershed, which has increased the capacity of this entitlement to approximately 11,200 AFY for an average rain year.

Recycled Water

South Bay Water Recycling (SBWR) has been serving Silicon Valley communities since 1993. In 1997, SJWC entered into a Wholesaler-Retailer Agreement with the City of San José to provide recycled water to SJWC's existing and new customers near SBWR recycling water distribution facilities. In accordance with the terms of this agreement, SJWC allowed SBWR to construct recycled water pipelines in its service area; SJWC would only own the recycled water meters while SBWR would own, operate, and maintain the recycled water distribution system. In 2010, the Wholesaler-Retailer Agreement was amended to allow SJWC to construct recycled water infrastructure that would be owned, operated, and maintained by SJWC. In 2012, the agreement was again amended to allow SJWC to construct additional recycled water infrastructure.

Wastewater/Sanitary Sewer System

The City's sanitary sewer/wastewater treatment system has two distinct components: 1) a network of sewer mains/pipes that conveys effluent from its source to the treatment plant; and 2) the water pollution control plant that treats the effluent, including a system of mains/pipes that transports a portion of the treated wastewater for non-potable uses (e.g., irrigation of landscaping, agricultural irrigation, dust suppression during construction, etc.).

Sanitary sewer lines in the project area are owned and maintained by the City of San José. Wastewater generated on the project site is discharged to the existing 6-inch vitrified clay pipe (VCP) sanitary sewer line located in Almaden Road.

Wastewater treatment service for the project area is provided by the City of San José through the San José-Santa Clara RWF. The RWF is located in Alviso and serves over 1,500,000 people in San José, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. The RWF treats approximately 110 million gallons per day (mgd) of sewage during dry weather flow, and has a capacity of 167 mgd.[60] The City of San José generates approximately 69.8 mgd of dry weather average flow.[61] Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

Existing Solid Waste Disposal System

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004, 2007, 2011, and 2016. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[62] Solid waste generated within the County is landfilled at Guadalupe Mines, Kirby Canyon, Newby Island, and Zanker Road landfills.

Existing Storm Drainage System

The project site is served by an underground storm drainage line maintained by the City of San José. Runoff from project area is directed to the existing 24-inch RCP storm drainage line located in Almaden Road.

Electricity and Natural Gas

SJCE is the electricity provider for residents and businesses in the City of San José. SJCE sources electricity, and PG&E delivers it to customers using existing PG&E utility lines. SJCE buys its power from a number of suppliers. Sources of renewable and carbon-free power include California wind, solar, and geothermal; Colorado wind; and hydroelectric power from the Pacific Northwest. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can enroll in the TotalGreen program through SJCE and receive

[60] City of San José. "San José/Santa Clara Regional Wastewater Facility." Accessed April 29, 2020. https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility.
[61] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 648.
[62] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.

100 percent GHG-free electricity from entirely renewable resources. It is assumed that, once operational, the project would utilize SJCE.

PG&E also furnishes natural gas for residential, commercial, industrial, and municipal uses. In 2018, natural gas facilities provided 15 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 34 percent; hydroelectric operations provided 13 percent; renewable energy facilities including solar, geothermal, and biomass provided 39 percent, and two percent was unspecified.[63]

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

3.19.2 Impacts and Mitigation

3.19.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to utilities and service systems would be considered significant if the project would:

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

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

c) Result in a determination by the wastewater treatment provider 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;

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; or

e) Not comply with federal, state, and local management and reduction statutes and regulations related to solid waste.

[63] PG&E, Delivering low-emission energy. Accessed September 19, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page

3.19.2.2 *Project Impacts*

a) **Would the project require or result in the relocation or construction of new or expanded water, or wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

The project would incrementally increase demands on utility services. Given the small scale of the project (62 residential units), the increase in utility demand is expected to be minor, since it represents a small fraction of the total growth identified in the City's General Plan.

Water service to the site would be supplied by SJWC, a private entity that obtains water from a variety of groundwater and surface water sources. Existing water mains in the project area include a line in Almaden Road. The project proposes to construct a water conveyance lateral that would tie into the water main in Almaden Road. The project has been designed to minimize the use and waste of water in accordance with the State and local regulations identified above. Additionally, because the project is consistent with the City's General Plan, the growth proposed by the project and its associated water use was addressed in the General Plan EIR. The project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed residential uses. Therefore, the project would not result in the relocation or construction of new or expanded water facilities.

The City of San José owns and maintains the sanitary sewer drain system in the project area. An existing 8-inch VCP sanitary sewer main extends along Almaden Road and would serve the proposed project. The project proposes to construct a sanitary sewer lateral that would tie into the sanitary sewer main in Almaden Road. The RWF treats approximately 110 mgd of sewage during dry weather flow, and has a capacity of 167 mgd. Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF. Therefore, the project would not result in the relocation or construction of new or expanded wastewater facilities.

As described in Section 3.6. Energy, the project would have a less than significant impact related to natural gas and electricity use that would result primarily for building heating and cooling, lighting, cooking, and water heating. The project would incorporate a number of efficiency measures to minimize the consumption of energy, such as the project would be built to the 2019 California Building Code standards and Title 24 energy efficiency standards (or subsequently adopted standards during the one-year construction term), and CALGreen code. In addition, as described previously the project would be required to submit a LEED, GreenPoint, or Build-It-Green checklist as part of their development permit applications in accordance with Council Policy 6-32, which promotes practices to minimize the use and waste of energy, water, and other resources in the City of San José. Therefore, the project would not result in the relocation or construction of new or expanded energy facilities.

The provision/relocation of telecommunication facilities would be coordinated between the project applicant and telecommunication provider and no significant environmental effects are anticipated as a result of the project as the project would not result in the relocation or construction of new or expanded telecommunication facilities.

As described in Section 3.10. Hydrology and Water Quality, the project would not significantly impact storm drainage facilities. The project proposes to construct a storm sewer lateral that would tie into the City's existing 24-inch storm main in Almaden Road. Storm water runoff from the site would be managed and treated in accordance with City policies, which includes implementation of a stormwater control plan. Therefore, the project would not result in the relocation or construction of new or expanded storm water facilities.

For the reasons presented above, the project is not expected to require or result in the relocation or construction of new or expanded water, wastewater treatment, storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. **Less Than Significant Impact**.

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

The project would incrementally increase demands on utility services. Water service to the site would be supplied by SJWC, a private entity that obtains water from a variety of groundwater and surface water sources. The amount of water demand for the project has not been made available. However, the project applicant would be required to acquire a "will serve" letter from SJWC to assure adequate water is available to serve the proposed commercial uses during normal, dry, and multiple dry year conditions. Additionally, because the project is consistent with the City's General Plan, the growth proposed by the project and its associated water use was addressed in the General Plan EIR. **Less Than Significant Impact**.

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

Wastewater from the City of San José is treated at the RWF. The RWF has the capacity to provide tertiary treatment of up to 167 mgd of wastewater but is limited to a 120 mgd dry weather effluent flow by the State and Regional Water Quality Control Boards.[64] Based on the General Plan EIR, the City's average dry weather flow is approximately 69.8 million gallons per day and the City's capacity allocation is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity. Development allowed under the General Plan (which includes the project) would not exceed the City's allocated capacity at the RWF; therefore, development of the project would have a less than significant impact on wastewater treatment capacity. **Less Than Significant Impact**.

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

The project would result in an incremental increase in solid waste generation. According to Santa Clara County's IWMP, Santa Clara County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution that set a goal of 75 percent waste diversion by 2013 and zero waste (at least 90% waste diversion) by 2022. The City generates approximately 700,000 tons per year of solid waste that is disposed of in

[64] City of San José, *San José/Santa Clara Regional Wastewater Facility*, 2016.

landfills, including 578,000 tons per year at landfills in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

The project would generate approximately 45.26 tons per year of solid waste.[65] The 2040 General Plan EIR concluded that the increase in waste at buildout of the General Plan would not exceed existing landfill capacity. The proposed project is consistent with the development assumptions in the General Plan; and would have a less than significant impact on landfill capacity. **Less Than Significant Impact**.

e) **Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?**

Final project design would be required to comply with all federal, state, and local statutes and regulations related to solid waste disposal. **Less Than Significant Impact**.

Conclusion: All project-level impacts related to utilities and service systems would be less than significant impact.

[65] Based on a rate of 4 pounds/person/day for "multi-family residential" for the 62 proposed units, from CalRecycle's Estimated Solid Waste Generation Rates, accessed online at www2.calrecycle.ca.gov/WasteCharacterization/General/Rates

3.20 Wildfire

3.20.1 Environmental Setting

3.20.1.1 *Regulatory Framework*

State

Public Resources Code Section 4201-4204

Sections 4201 through 4204 of the California Public Resources Code direct Cal Fire to map Fire Hazard Severity Zones (FHSZ) within State Responsibility Areas (SRA), based on relevant factors such as fuels, terrain, and weather. Mitigation strategies and building code requirements to reduce wildland fire risks to buildings within SRAs are based on these zone designations.

Government Code Section 51175-51189

Sections 51175 through 51189 of the California Government Code directs Cal Fire to recommend FHSZs within Local Responsibility Areas (LRA). Local agencies are required to designate VHFHSZs in their jurisdiction within 120 days of receiving recommendations from Cal Fire, and may include additional areas not identified by Cal Fire as VHFHSZs.

California Fire Code

The 2016 California Fire Code Chapter 49 establishes the requirements for development within wildland-urban interface areas, including regulations for wildfire protection building construction, hazardous vegetation and fuel management, and defensible space maintained around buildings and structures.

Local

General Plan

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating wildfire impacts from development projects. Relevant policies applicable to the project are presented below.

Envision San José 2040 Relevant Wildfire Policies	
Policy 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.
Policy 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.
Policy 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 level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Code.
Policy EC-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

3.20.1.2 *Existing Conditions*

The project site is surrounded by residential and commercial development and is not located within a Very-High Fire Hazard Severity Zone for wildland fires, as designated by the California Department of Forestry and Fire Protection (Cal Fire, Fire Hazard Severity Maps, 2007, 2008).

3.20.2 Impacts and Mitigation

3.20.2.1 *Thresholds of Significance*

For the purposes of this analysis and in accordance with CEQA Guidelines, a project impact to wildfire would be considered significant if the project would:

a) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, substantially impair an adopted emergency response plan or emergency evacuation plan;

b) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire;

c) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project 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; or

d) If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

3.20.2.2 *Project Impacts*

a) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project substantially impair an adopted emergency response plan or emergency evacuation plan?**

The project would not substantially impair an adopted emergency response plan or emergency evacuation plan. As stated above in Section 3.9. Hazards and Hazardous Materials, the project would not create any barriers to emergency or other vehicle movement in the area and final design would incorporate all Fire Code requirements. **No Impact**.

b) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project 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?**

The project would not exacerbate wildfire risks due to slope, prevailing winds, and other factors due to the project's urbanized location away from natural areas susceptible to wildfire. The project site is not located within an area of moderate, high, or very high Fire Hazard Severity

for the Local Responsibility Area nor does it contain any areas of moderate, high, or very high Fire Hazard Severity for the State Responsibility Area. **No Impact**.

c) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project 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?**

Due to the project's urbanized location and lack of interface with any natural areas susceptible to wildfire, the project would not require the installation or maintenance of associated fire suppression or related infrastructure. **No Impact**.

d) **If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project 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?**

See above discussion. The project would not expose people or structures to significant wildfire risks given its highly urban location away from natural areas susceptible to wildfire. **No Impact**.

Conclusion: All project-level impacts related to wildfire would be less than significant.

SECTION 4 CUMULATIVE IMPACTS

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant, effects taking place over a period of time. CEQA Guidelines Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3).

The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts: 1) would the effects of all the pending development listed result in a cumulatively significant impact on the resources in question; and if that cumulative impact is likely to be significant, 2) would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts.

Section 15130(B) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. The project would primarily contribute to the cumulative effects of development in the area surrounding the project site, except where otherwise indicated.

4.1 CUMULATIVE PROJECT IMPACTS

Based on the analysis in this EIR, the proposed project would result in either no impacts or less than significant impacts in the areas of aesthetics, agricultural/forestry resources, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, transportation, tribal cultural resources, utilities and service systems, and wildfire with implementation of mitigation measures and/or standard permit conditions. As a result, the project's contribution to a cumulatively significant impact in any of these resource areas would not be considerable.

The project would result in significant impacts related to air quality, biological resources, cultural resources, hazards and hazardous materials, and noise and vibration. Mitigation is identified to reduce the project impacts to these resources to a less than significant level. Discussion of cumulative impacts related to each of these resource areas is discussed below:

Air Quality: The project would contribute to significant cumulative increases in community risk impacts at sensitive receptors affected by construction, which represents a potentially significant impact. Without mitigation, the project's community risk from project construction activities would exceed the cancer risk significance threshold. Specific mitigation measures were identified in this EIR

to reduce on-site diesel exhaust emissions from construction equipment. With the incorporation of Mitigation Measure AQ-1, the project's construction single-source and cumulative-source risks would not exceed the significance thresholds and would result in a **Less Than Significant Impact with Mitigation Incorporated**.

Biological Resources: The project would result in significant impacts to biological resources, specifically to nesting raptors and other migratory bird species. However, the project would not result in significant cumulative impacts related to biological resources. Biological resources-related impacts associated with the project would consist of temporary impacts related to potential disturbance of nesting raptors or other migratory bird species during construction. Due to the temporary nature of these impacts, as well as the implementation of identified standard permit conditions and mitigation measures, no long-term cumulative impacts are expected to occur. Additionally, similar mitigation measures are required for all cumulative projects with the potential to impact nesting birds. As a result, cumulative impacts associated with the project related to biological resources would be **Less than Significant with Mitigation Incorporated**.

Cultural Resources: The project would result in potentially significant impacts to archaeologic resources. Mitigation is identified to reduce the project impacts to cultural resources to a less than significant level. Specific mitigation measures and standard permit conditions are identified in this EIR to protect archaeological artifacts, if encountered during project construction (see MM CR-1.1 through MM CR-1.5). Similar mitigation measures are required for all cumulative projects; as a result, cumulative impacts associated with the project related to archaeological resources would be **Less than Significant with Mitigation Incorporated.**

Hazardous and Hazardous Materials: Grading and construction of the project could potentially expose construction workers and the public to residual soil and groundwater contaminants on the site. Specific mitigation and standard permit conditions are identified in this EIR to avoid hazardous materials contamination that exceeds regulatory thresholds (see MM HAZ-1). Additionally, issues related to hazardous materials contamination are typically localized or site-specific. As a result, cumulative impacts associated with the project related to hazardous and hazardous materials would be **Less than Significant with Mitigation Incorporated**.

Noise and Vibration: The project would result in significant impacts related to noise and vibration. Specifically, the project would result in noise impacts from outdoor mechanical equipment on nearby sensitive receptors. Specific mitigation is identified in this EIR to select mechanical equipment that meets the City's noise standards (see MM NSE-1). In addition, construction of the project would result in potentially significant, short-term noise impacts. MM NSE-2 identifies construction noise abatement measures to minimize construction noise impacts. Finally, the project would result in potential vibration effects on non-historic buildings surrounding the site during construction. Specific mitigation is identified in this EIR to minimize and repair any effects from vibration impacts (see MM NSE-3). The project's noise and vibration impacts would be localized, and no other active construction sites are known within 1,000 feet of the project. As a result, cumulative impacts associated with the project (related to noise and vibration) would be **Less than Significant with Mitigation Incorporated**.

SECTION 5 GROWTH-INDUCING IMPACTS

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

For the purposes of this project, a growth-inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;

- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or

- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project is proposed on an infill site in San José. The site is surrounded by existing infrastructure and existing development. The project would not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

Development of the project site would introduce a 90,323 gross square foot residential building to accommodate 62 units in an area surrounded by residential and commercial uses. The proposed project would generally be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses.

Development of this site consistent with the proposed project would result in a net increase in housing Citywide. The increase in housing resulting from the project would have a small effect on the overall jobs/housing imbalance within the City.

Based on the above discussion, the project would not result in a growth inducing impact.

This Page Intentionally Left Blank

SECTION 6 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed project, should it be implemented." [Section 15126(d)]

If the proposed project is implemented, development of this site would involve the use of nonrenewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that could not reasonably be re-created. Construction also involves significant consumption of energy, typically petroleum-based fuels, that deplete supplies of nonrenewable resources. After the project is constructed, residential occupants would use some nonrenewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water.

The City of San José encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed project would be built to current codes, which require insulation and design to minimize wasteful energy consumption. In addition, the site is an infill location currently served by public transportation, bicycle and pedestrian facilities.

This Page Intentionally Left Blank

SECTION 7 SIGNIFICANT AND UNAVOIDABLE IMPACTS

As defined in the CEQA Guidelines, a significant impact on the environment is "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project…" Final determination of the significant impacts is made by the decision-making body of the Lead Agency with final approval authority over the project.

All significant impacts of the proposed project associated with the specific project site would be reduced to a less than significant level with the implementation of mitigation measures and permit conditions identified in this EIR. The project would not result in any significant, unavoidable impacts.

This Page Intentionally Left Blank

SECTION 8 ALTERNATIVES

CEQA Guidelines Section 15126.6 requires the consideration of a range of reasonable alternatives to the proposed project that could feasibly attain most of the objectives of the project. The Guidelines further require that the discussion focus on alternatives capable of eliminating significant adverse impacts of the project or reducing them to a less than significant level. The key provisions of the CEQA Guidelines regarding analysis of alternatives are presented below:

- The analysis should focus on alternatives to the project, including alternative locations, that are capable of avoiding or substantially lessening the significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives or would be more costly.

- The No Project alternative shall be evaluated along with its impact. The No Project analysis shall discuss the existing conditions at the time the Notice of Preparation is published, as well as what would reasonably be expected to occur in the foreseeable future if the project were not approved based on current plans.

- The range of alternatives required in an EIR is governed by a "rule of reason" that considers only those alternatives necessary to permit a reasoned choice. The alternatives are limited to those that would avoid or substantially lessen the significant environmental effects of the project. The CEQA Guidelines do not specify a precise number of alternatives to be evaluated in an EIR.

- For alternative locations, only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.

- An EIR need not consider an alternative whose effects cannot be reasonably ascertained and whose implementation is remote and speculative.

The range of feasible alternatives analysis is intended to foster meaningful public participation and informed decision making. Among the factors that may be taken into account when addressing the feasibility of alternatives are environmental impacts, site suitability, economic viability, availability of infrastructure, general plan consistency, regulatory limitations, jurisdictional boundaries, and whether the proponent could reasonably acquire, control, or otherwise have access to an alternative site, per CEQA Guidelines Section 15126.6(f)(1).

An EIR must briefly describe the rationale for selection and rejection of alternatives. The Lead Agency may make an initial determination of which alternatives are feasible and merit in-depth consideration, and which are infeasible (see CEQA Guidelines Section 15126.6(f)(3)). Alternatives may be eliminated from detailed consideration in the EIR if they fail to meet project objectives, are infeasible, or do not avoid any significant environmental effects.

8.1 Significant Impacts of the Project

The EIR identifies impacts of the project that would be significant but have mitigation available to reduce the impacts to less than significant levels. These resource sections are as follows:

- Air Quality: construction toxic air contaminant emissions
- Biological Resources: construction disturbance of nesting birds
- Cultural Resources: potential construction disturbance of archaeological resources
- Hazards and Hazardous Materials: potential release of hazardous materials from previous uses
- Noise/Vibration: mechanical equipment noise, construction noise and potential vibration impacts on nearby uses and buildings

8.2 Project Objectives

The objective of the project is to construct new residential development in an in-fill environment, with 20% of the units designated for affordable housing, to help meet the current demand for housing in San José. Specifically, the project's objectives are to:

- Provide a project that meets the strategies and goals of the 2040 General Plan of locating high density development on infill sites near public transit.
- Provide affordable housing near public transit to encourage future residents to rely on alternative transportation to individual vehicles.
- Provide on-site community benefits for the residents including outdoor courtyards, private dog run, club room, community deck, community kitchen facilities, common room, and fitness areas.
- Provide bicycle parking for residents to help support the goals of the 2040 General Plan in promoting San José as a great bicycling community.
- Assist the City of San José to satisfy its capital regional housing needs allocation for below market rate housing units.

8.3 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines advise that such factors can include (but are not necessarily limited to) the suitability of an alternative site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site (Section 15126.6[f][1])."

8.4 Selection of Alternatives

8.4.1 Alternatives Considered but Rejected

8.4.1.1 *Alternative Location*

Location Alternative. There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines, "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the

project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines, Section 15126.6(a)). As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar, supra*, 119 Cal.App.4th at p. 491.) The Guidelines, thus, do not always require analysis of off-site alternatives.

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location."[66] The proposed project is an infill residential building to accommodate 62 units. The applicant does not own another property that could be used for development of the project. For these reasons, an alternative location was not analyzed.

8.5 Project Alternatives

The following section discusses the alternatives evaluated in this EIR and the comparative environmental effects of each. The alternatives considered in this analysis are as follows:

1. No Project Alternative
2. Reduced Project Alternative

8.5.1 No Project Alternative

The CEQA Guidelines [Section 15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services."

Because the No Project Alternative would not result in any new development on the project site, this Alternative would avoid all of the environmental impacts from the project, assuming no physical changes are made to the site. However, this Alternative would not meet any of the project objectives to provide additional housing, including affordable units, in the City of San José.

It is possible that in the future, an alternative development may be proposed at the project site. Based on the General Plan designation of *Urban Residential* for the site, other permitted uses could include medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities. Any future use on the site would require review and approval by the City of San José, including CEQA evaluation.

Conclusion: Implementation of the No Project – No Development Alternative would avoid the significant impacts identified in this EIR. This alternative would not, however, accommodate the demand for additional housing in San José, consistent with the General Plan. This alternative does not meet the objectives of the proposed project. Given the maximum allowable development, it is reasonable to assume that construction air quality and noise impacts would be comparable to the proposed project because the length of construction and amount of grading would likely be similar. Other identified impacts would remain the same as the proposed project, since this alternative assumes full demolition of existing structures, removal of all landscaping trees onsite, and grading of the site. Any future proposal to develop the site with a different project would be subject to review by the City

[66] CEQA Guidelines Section 15126.6(f)(2)(A)

of San José. This Alternative would not meet any of the project objectives to provide additional housing, including affordable units, in the City of San José.

8.5.2 Reduced Project Alternative

The Reduced Project Alternative would allow for a multi-family residential building with a reduction in units and height (Figure 22). This Alternative would allow development of a four-story residential building consisting of 40 residential units and parking for an estimated 59 vehicles. Approximately eight affordable housing units would be allowed assuming a density bonus is applied to this alternative.

The Reduced Project Alternative, which could decrease, but generally not avoid some environmental effects. Development of the 0.57 acre site with the smaller building would still result in the same significant environmental impacts as the project, as shown in Table 24 below. The Reduced Project Alternative would lessen impacts related to the decrease in residential units, including a reduction in traffic generation, potential reduction in construction air pollutants, potential decrease in noise from mechanical equipment, and a minor decrease visual effects from the shorter building height. However, mitigation measures identified for the proposed project would also be required for this alternative to reduce impacts to a less than significant level.

The Reduced Project Alternative does not fully meet the project objectives because it reduces the size of the proposed residential project by 22 units, including three affordable units.

8.5.2.1 *Comparison of Environmental Impacts of the Alternatives*

A comparison of alternatives based upon whether they avoid or substantially lessen the significant environmental effects outlined of the project are provided in Table 24. The location alternative is not included in the comparison analysis in Table 24 as it has been deemed infeasible.

Table 24
Comparison of Environmental Impacts for Alternatives to the Project

Significant Impacts of the Project	**Alternatives**		
	Proposed Project	**No Project Alternative**	**Reduced Development Alternative**
Air Quality			
Community risk from construction emissions of TACs.	LSM	No Impact	Same or Less
Biological Resources			
Disturbance of nesting birds.	LSM	No Impact	Same
Cultural Resources			
Construction impacts to unknown buried archaeological resources.	LSM	No Impact	Same
Hazards and Hazardous Materials			
Potential release on hazardous materials.	LSM	No Impact	Same

Table 24 Comparison of Environmental Impacts for Alternatives to the Project			
Significant Impacts of the Project	**Alternatives**		
	Proposed Project	**No Project Alternative**	**Reduced Development Alternative**
Noise and Vibration			
Impacts on noise-sensitive land uses in the immediate project vicinity due to mechanical equipment.	LSM	No Impact	Same or Less
Impacts on nearby noise-sensitive land uses during construction.	LSM	No Impact	Same or Less
Impacts due to construction-related vibration.	LSM	No Impact	Same
Meets Project Objectives?	Yes	No	Partially
Environmentally Superior Alternative	No	No	Yes
LTS = Less Than Significant Impact LSM = Less than Significant with Mitigation Applied. Less = Substantial impact reduction compared to the project, but not necessarily to a less than significant level			

8.5.3 Environmentally Superior Alternative

The CEQA Guidelines specify that an EIR must identify the environmentally superior alternative among those alternatives discussed. If the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives [Section 15126.69(e)(2)].

Based upon the discussion above, the Environmentally Superior Alternative would be the Reduced Project Alternative, which could decrease, but generally not avoid, most environmental effects. The Reduced Project Alternative would lessen impacts related to the decrease residential units, including a reduction in traffic generation, potential reduction in construction air pollutants, potential decrease in noise from mechanical equipment, and a minor decrease visual effects from the shorter building height. However, mitigation measures identified for the proposed project would also be required for this alternative to reduce impacts to a less than significant level.

The Reduced Project Alternative does not fully meet the project objectives because it reduces the size of the proposed residential project by 22 units, including three affordable units.

Source: Mayberry Workshop, November 2020

Reduced Project Alternative - Rendering

Figure 22

Almaden Villas
Draft EIR

SECTION 9 REFERENCES

ACC Environmental Consultants, Phase I Environmental Site Assessment, 1747 Almaden Road, San Jose, California 95125, December 5, 2018

ACC Environmental Consultants, Soil Characterization Report (Rev 1), 1747 Almaden Road, San Jose, California 95125, August 5, 2019.

ACC Environmental Consultants, Soil Management Plan, 1747 Almaden Road, San Jose, California 95125, January 22, 2021.

Bay Area Air Quality Management District, BAAQMD CEQA Guidelines, revised May 2017.

Bay Area Air Quality Management District, Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate, April 2017.

California Department of Conservation, Santa Clara County Important Farmlands Map, accessed online.

California Department of Forestry and Fire Protection (Cal Fire), Fire Hazard Severity Maps, 2007, 2008.

Federal Emergency Management Agency, Flood Insurance Rate Maps, Panel 060850242H, May 18, 2019.

Hexagon Transportation Consultants, Inc., 1747 Almaden Road Residential Development Transportation Analysis, March 2020.

Holman & Associates, Results of CEQA Archaeological Literature Search for 0.5 Acres at 1747 Almaden Road, San José, Santa Clara County, September 18, 2019.

IFC International, Final Santa Clara Valley Habitat Plan, August 2012.

Illingworth & Rodkin, Almaden Villas Air Quality & Greenhouse Gas Assessment, January 2021.

Illingworth & Rodkin, Almaden Villas 1747 Almaden Road Noise and Vibration Assessment, September 2020.

San José, City of, San José 2040 Envision San José General Plan, adopted November 2012 and updated through 2020.

San José, City of, Envision San José 2040 General Plan Scenic Corridors Diagram, June 2016.

This Page Intentionally Left Blank

SECTION 10 LEAD AGENCY AND CONSULTANTS

10.1 Lead Agency

City of San José Department of Planning, Building and Code Enforcement
Chu Chang, Acting Director
David Keyon, Principal Planner
Cassandra van der Zweep, Supervising Planner
Reema Mahamood, Environmental Project Manager

10.2 Consultants

Denise Duffy & Associates, Inc.
Environmental Consultant
Leianne Humble, Senior Planner
Karen Hernandez, Assistant Planner
Robyn Simpson, Assistant Planner/Editor

Hexagon Transportation Consultants, Inc.
Robert Del Rio, Senior Associate

Holman & Associates
Archaeological Consultants
Sunshine Psota, Senior Associate

Illingworth & Rodkin, Inc.
Casey Divine, Staff Consultant
Carrie Janello, Staff Consultant
James Reyff, Senior Project Scientist/Principal
Michael Thill, Senior Consultant/Principal

PERSONS CONTACTED

Robert Del Rio, Hexagon Transportation Consultants
Casey Divine, Illingworth & Rodkin
Carrie Janello, Illingworth & Rodkin
Michael Thill, Illingworth & Rodkin

This Page Intentionally Left Blank

SECTION 11 ACRONYMS AND ABBREVIATIONS

Acronym or Abbreviation	Definition
AASHTO	American Association of State Highway Transportation Officials
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACC	ACC Environmental Consultants
ACMs	Asbestos Containing Materials
ADA	Americans with Disabilities Act
ADPs	Area Development Policies
ADT	Average Daily Traffic
AFY	Acre-feet Per Year
APN	Assessor's Parcel Number
BAAQMD	Bay Area Air Quality Management District
BAU	Business as Usual
bgs	Below Ground Surface
BMP	Best Management Practice
Btu	British Thermal Unit
CAAQS	California Ambient Air Quality Standards
CARB	California Air Resources Board
CBC	California Building Standards Code
CalARP	California Accidental Release Prevention
CalEEMod	California Emissions Estimator Model
CalGreen	California Green Building Standards Code
CalRecycle	California Integrated Waste Management Board
Caltrans	California Department of Transportation
Cal EPA	California Environmental Protection Agency
Cal Fire	California Department of Forestry and Fire Protection
CAL/OSHA	California Occupational Safety Health Program
CARE	Community Air Risk Evaluation
CAA	Federal Clean Air Act
CBC	California Building Code
CCAA	California Clean Air Act
CCL	Candidate City Landmark
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFCs	Chlorofluorocarbons
CGP	Construction General Permit
CH_4	Methane
CHRIS	California Historical Resources Information System
CIWMB	California Integrated Waste Management Board
CMA	Congestion Management Agency
CMP	Congestion Management Plan
CO	Carbon Monoxide
CO_2	Carbon Dioxide

CO_2e	Carbon Dioxide Equivalent
CPUC	California Public Utilities Commission
CS	Contributing Structure
CUPA	Certified Unified Program Agency
CWA	Clean Water Act
CY	Cubic Yards
dB	Decibels
DEIR	Draft EIR
DNL	Day-Night Level
DPM	Diesel Particulate Matter
DTSC	California Department of Toxic Substances Control
du	Dwelling Units
DWR	California Department of Water Resources
EIR	Environmental Impact Report
EPA	US Environmental Protection Agency
ESLs	Environmental Screening Levels
EVSE	Electric Vehicle Service Equipment
FAR	Floor Area Ratio
FCAA	Federal Clean Air Act
FCAAA	Federal Clean Air Act Amendments
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIP	Federal Implementation Plan
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
General Plan	Envision 2040 San José General Plan
GHG	Greenhouse Gas
GSI Plan	Green Stormwater Infrastructure Plan
GWh	Gigawatt Hours
HAPs	Hazardous Air Pollutants
HCP	Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan
HHRLs	Human Health Risk Levels
HI	Hazard Index
HRA	Health Risk Assessment
ITE	Institute of Transportation Engineers
IWMP	Integrated Waste Management Plan
LEED	Leadership in Energy and Environmental Design
LESA	California Agricultural Land Evaluation and Site Assessment
LID	Low Impact Development
LOP	Local Oversight Program
LOS	Levels of Service
LRA	Local Responsibility Areas
LRT	Light Rail Transit
LTA	Local Transportation Analysis
MBTA	Migratory Bird Treaty Act
MEI	Maximally Exposed Individual
MLD	Most Likely Descendant

mgd	Million Gallons per Day
mpg	Miles per Gallon
mg/kg	Milligrams per Kilogram
MMT	Million Metric Tons
MND	Mitigated Negative Declaration
MRP	Municipal Regional Stormwater NPDES Permit
MSAT	Mobile Source Air Toxics
MTC	Metropolitan Transportation Commission
N_2O	Nitrous Oxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NCS	Non-Contributing Structure
NFIP	National Flood Insurance Program
NO_2	Nitrogen Dioxide
NO_x	Oxides of Nitrogen
NOA	Naturally Occurring Asbestos
NOD	Notice of Determination
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
NS	Non-Significant
NWIC	Northwest Informative Center
O_3	Ozone
OCPs	Organochlorine Pesticides
OPR	Office of Planning and Research
Pb	Lead
PBCE	Planning, Building and Code Enforcement
PDAs	Priority Development Areas
PDO	Parkland Dedication Ordinance
PEIR	Program Environmental Impact Report
PG&E	Pacific Gas & Electric
PIO	Park Impact Ordinance
PM	Suspended Particulate Matter
$PM_{2.5}$	Fine Particulate Matter
PM_{10}	Respirable Particulate Matter
PPV	Peak Particle Velocity
PRC	Public Resources Code
RCP	Reinforced Concrete Pipe
RCRA	Resource Conservation and Recovery Act
RHNA	Regional Housing Need Allocation
RMP	Risk Management Plan
RNCM	Roadway Construction Noise Model
ROG	Reactive Organic Gases
RPS	Renewables Portfolio Standard
RTPs	Regional Transportation Plans
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SBWR	South Bay Water Recycling
SCS	Sustainable Community Strategies

SFBAAB	San Francisco Bay Area Air Basin
SFHA	Special Flood Hazard Areas
SHMA	Seismic Hazards Mapping Act
SIP	State Implementation Plan
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJPD	San José Police Department
SJPL	San José Public Library
SJUSD	San José Union School District
SJWC	San José Water Company
SM	Structure of Merit
SMARA	Surface Mining and Reclamation Act of 1975
SMP	Soil Management Plan
SO_2	Sulfur Dioxide
SR 87	State Route 87
SRA	State Responsibility Area*
SVOCs	Semi-Volatile Organic Compounds
SWCV	Solid Waste Collection Vehicle
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
TCMs	Treatment Control Measures
TCRs	Tribal Cultural Resources
TDM	Transportation Demand Management
TDPs	Transportation Development Policies
UPAs	Unified Program Agencies
URBEMIS	Urban Land Use Emissions Model
USACE	US Army Corps of Engineers
USFWS	US Fish and Wildlife Service
V/C	Demand-to-Capacity Ratio
VCP	Vitrified Clay Pipe
VDECs	Verified Diesel Emission Control Devices
VMT	Vehicle Miles Traveled
VOCs	Volatile Organic Compounds
VTA	Santa Clara Valley Transportation Authority
ZNE	Zero Net Carbon Emissions