

Draft Environmental Impact Report

1881 West San Carlos Project

File Nos.: BURBANK 44/C20-011/CP20-020/T20-016



June 2022

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SUMMARY

The applicant proposes to demolish four existing commercial buildings and construct a seven-story, 209,522 square-foot, mixed-use development consisting of a 246-bed residential care facility for the elderly, 61 multi-family residential units, and 6,000 square-foot ground floor retail with alternative parking (stackers) on the ground floor and basement on a 1.23-gross acre site. The applicant is also seeking a Vesting Tentative Map approval to merge seven lots into one lot for up to 67 condominium units for residential and commercial purposes.

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

| Significant Impacts | Mitigation Measures |
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| Air Quality | |
| <p>Impact AIR-1: Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess of the BAAQMD threshold of 10 cases per one million for infants.</p> <p>(Less than Significant Impact with Mitigation Incorporated)</p> | <p>MM AIR-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce toxic air contaminant (TAC) emissions.</p> <ul style="list-style-type: none"> • All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter (PM₁₀ and PM_{2.5}). • If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 50 percent reduction in diesel particulate matter emissions. • Use of alternatively fueled or electric equipment. <p>The project applicant shall submit a construction operations plan prepared by an air quality professional that outlines how the construction contractor will achieve the</p> |

| | <p>measures outlined above. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p> |
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| Biological Resources | |
| <p>Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would constitute a significant impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800.</p> <p>(Less than Significant Impact with Mitigation Incorporated)</p> | <p>MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.</p> <p>If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest. The buffer would ensure that raptor or migratory bird nests will not be disturbed during project construction.</p> <p>Prior to any tree removal, or approval of any demolition or grading permits (whichever occurs first), the qualified applicant shall submit an ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.</p> |

| Cultural Resources | |
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| <p>Impact CUL-1: The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José Historic Resources Inventory as Candidate City Landmarks. Demolition of these buildings would result in a significant unavoidable impact.</p> <p>(Significant Unavoidable Impact)</p> | <p>MM CUL-1.1: <u>Documentation:</u> The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:</p> <ol style="list-style-type: none"> 1. Drawings – Prepare sketch floor plans. 2. Photographs – Digital photographic documentation of the interior, exterior, and setting of the buildings in compliance with the National Register Photo Policy Fact Sheet. Photos must have a permanency rating of approximately 75 years. 3. Written Data – HABS written documentation in short form. <p>An architectural historian meeting the Secretary of the Interior’s Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The existing DPR forms shall fulfill the requirements for the written data report.</p> <p>The City of San José’s Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library’s California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System prior to the issuance of any demolition permits. All documentation shall be submitted on archival paper.</p> <p><u>Relocation by a Third Party:</u> The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street shall be advertised for relocation by a third party. The project applicant shall be required to advertise the availability of the buildings for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant must provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director’s designee that this condition has been met prior to the</p> |

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| | <p>issuance of demolition or grading permits, whichever comes first.</p> <p>If a third party does agree to relocate the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, the following measures shall be completed:</p> <ol style="list-style-type: none"> 1. The City's Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building. 2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation already completed shall be used to the extent possible to avoid repetition in work. 3. To protect the building during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move. 4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i>. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features. <p>Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the <i>Secretary of</i></p> |
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| | <p><i>the Interior's Standards for the Treatment of Historic Properties</i> and that all character-defining features were preserved. The project applicant shall submit a report to the City's Historic Preservation Officer documenting the relocation.</p> <p><u>Salvage:</u> If no third party relocates the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, they shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or the Director's designee, together with the City's Historic Preservation Officer.</p> <p>The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or the Director's designee, that this condition has been met prior to the issuance of demolition or grading permits, whichever comes first.</p> <p>MM CUL-1.2: A qualified historian shall create a permanent interpretive program, exhibit, or display of the history of the property including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. Any exhibit or display shall be placed in a suitable publicly accessible location on the project site. The final design of the commemorative interpretive program, exhibit, or display shall be determined in coordination with the City's Historic Preservation Officer.</p> |
| Noise and Vibration | |
| <p>Impact NOI-1: Construction noise would exceed ambient levels by 5.0 dBA or more for a period of more than one year.</p> <p>(Less than Significant Impact with Mitigation Incorporated)</p> | <p>MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise</p> |

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| | <p>disturbance. In addition, the noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any grading or demolition permits.</p> <p>As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:</p> <ul style="list-style-type: none"> • Limit construction hours to between 7:00 AM and 7:00 PM, 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 use. • Use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. Equip all internal combustion engines with adequate mufflers and maintain all equipment in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. • Prohibit all unnecessary idling of internal combustion engines. • Locate staging areas and stationary noise-generating equipment as far as possible from sensitive receptors (a minimum of 200 feet, where feasible). • Notify the surrounding neighborhood within 500 feet early and frequently of the construction activities. • Designate a "noise disturbance coordinator" to respond to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require |
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| | <p>that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number at the construction site and include it in the notice sent to neighbors regarding the construction schedule.</p> <ul style="list-style-type: none"> • Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists. • 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 five 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. Typically, a minimum height of eight feet would be adequate. • Stationary noise-generating equipment that must be located near receptors shall use adequate muffling (with enclosures where feasible and appropriate). 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. • Substitute graders for bulldozers, where feasible, during final grading. Use wheeled heavy equipment, where feasible. Wheeled heavy equipment are quieter than track equipment. • Substitute nail guns for manual hammering, where feasible. • Substitute electrically powered tools for noisier pneumatic tools, where feasible. |
| <p>Impact NOI-2: Construction vibration levels would exceed the 0.08 in/sec PPV threshold for nearby historical buildings located within 55 feet of the project site.</p> <p>(Less than Significant Impact with Mitigation Incorporated)</p> | <p>MM NOI-2.1: The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions of 24 Brooklyn Avenue, 19 Boston Avenue, and 12 Boston Avenue prior to, during, and after vibration generating construction activities. All Plan tasks shall be undertaken under the direction of a licensed Professional Structural</p> |

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| | <p>Engineer in the State of California and be in accordance with industry-accepted standard methods. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:</p> <ul style="list-style-type: none"> • A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee 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 for reducing vibration levels below the thresholds. • Place operating equipment on the construction site at least 30 feet from vibration-sensitive receptors. • Use the smallest equipment available to complete the task and minimize vibration levels as low as feasible. • Avoid using vibratory rollers and tampers near sensitive areas. • Select demolition methods not involving impact tools. • Modify/design or identify alternative construction methods to reduce vibration levels below the limits. • Avoid dropping heavy objects or materials. • Identify sensitivity to ground-borne vibration of the property. A vibration survey (generally described below) would need to be performed. <ul style="list-style-type: none"> – Perform of a photo survey, elevation survey, and crack monitoring survey for each historic structure within 60 feet of construction activities. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, |
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| | <p>and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.</p> <ul style="list-style-type: none"> - 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. If vibration levels approach limits, construction shall be suspended and contingency measures shall be implemented to lower vibration or secure affected structures. - 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-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior's Standards where damage has occurred as a result of construction activities. - The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits will be included together with proper documentation supporting any such claims. |
| Transportation | |
| Impact TRANS-1: The proposed project would exceed the vehicle miles traveled (VMT) per | MM TRANS-1.1: a) The applicant shall identify a transportation demand management (TDM) coordinator who shall be responsible for |

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| <p>the employee threshold of 12.21 by 5.2 percent.</p> <p>(Less Than Significant Impact with Mitigation Incorporated)</p> | <p>implementing a ride-sharing program for at least 15 percent of future employees who have similar commutes. If the TDM coordinator changes, the Director of Planning, Building and Code Enforcement or the Director’s designee and tenants of the project shall be notified of the name and contact information of the new designated TDM coordinator.</p> <p>(b) The TDM coordinator shall be responsible for ensuring that the project meets the City’s annual monitoring requirements. Monitoring shall include the following:</p> <ul style="list-style-type: none"> • Annual Vehicle Trip Generation Counts (conducted by a third party). Only the vehicle trip generation counts at the Brooklyn Avenue and Boston Avenue driveways entering the assisted-living surface parking area shall be counted. If the counts show that the project trip generation is higher than expected, then the TDM plan shall be altered or enhanced. • Annual Mode Share Surveys. A survey shall be administered to all employees. This would provide qualitative data regarding employee perceptions of the alternative transportation programs and perceptions of the obstacles to using an alternative mode of transportation. The survey also would provide quantitative data regarding the number of employees who utilize alternative modes of transportation (e.g., bike-to-work, carpool, or use public transit) to commute to work, including the frequency of use. The mode share survey results should measure the relative effectiveness of individual TDM program components and facilitate the design of possible program enhancements in order to reduce single-occupant vehicle trips. • Annual Monitoring Report. The TDM coordinator shall be responsible for submitting the monitoring reports to the Director of Planning, Building and Code Enforcement or the Director’s designee for three years, and then upon |
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| | request of the Zoning Administrator for the life of the project. |
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Summary of Alternatives to the Proposed Project

The California Environmental Quality Act (CEQA) requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state 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 project alternatives is provided in *Section 7.0 Alternatives*.

Location Alternative

There are properties in proximity to the site within the Urban Village that could be redeveloped which would have structures over 50 years old. Due to the size of the project and existing land uses in the area, construction-related impacts would be the same in any location within the West San Carlos Urban Village. The project applicant does not own or have control of the alternative locations in the project area.

Preservation Alternative 1 – Relocation and Preservation of Historic Resources Off-Site

This alternative would relocate the buildings at 1883-1887 West San Carlos Street (Building 1) and 1891-1895 West San Carlos Street (Building 2) off-site and construct a mixed-use building with a senior care component and a condominium component as proposed. The area identified for potential relocation sites is the West San Carlos Urban Village to retain the relationship of the buildings to the neighborhood and West San Carlos Street. Relocation of these buildings would require acquisition of an existing developed lot which does not contain a historic or potentially historic structure. Demolition of any existing building(s) to facilitate relocation of Buildings 1 and 2 would cause displacement of existing land uses.

The applicant hired a broker to determine the availability of land to relocate the buildings, but the broker was unable to find a viable receiver site for either of the structures within the Urban Village.

No Project

The No Project Alternative would retain the existing land uses on-site. If allowed to remain as is, there would be no new impacts. It is possible that in the future an alternative development proposal, such as another mixed-use building complex, may be presented for the project site. Another mixed-use development could be comparable in density and scale to what is currently proposed or larger, assuming that any proposal would try to maximize the development allowed on-site consistent with the development anticipated in the area. Any future development proposals for the site would require review, annexation through LAFCO, and rezoning of all parcels similar to the proposed project.

Preservation Alternative 2 – Preservation of Historic Resources On-Site

Under this alternative, Buildings 1 and 2 (totaling 10,738 square feet) would be retained on-site. Building 1 would be used as retail space while Building 2 would be retail and office space. The two historic resources that would be preserved on-site would be required to be maintained and reused in an appropriate manner consistent with applicable standards to maintain their historic significance.

The proposed senior care component would have the same height and massing and have the same number of units as the proposed project. The proposed residential units of the condominium component would be reduced from 61 units to 20 units. Preservation of both historic structures would result in a less than significant project-level and cumulative cultural resources impact when compared to the proposed project. All other impacts would remain the same and this alternative would be required to implement all mitigation measures (AIR-1.1, BIO-1.1, NOI-1.1, NOI-2.1, and TRANS-1.1), Standard Permit Conditions, and Conditions of Approval identified for the proposed project.

Preservation Alternative 3 – Preservation of 1891-1895 West San Carlos Street Building On-Site

Under Preservation Alternative 3, Building 2 (totaling approximately 6,914 square feet) would be retained on-site while Building 1 would be demolished. As mentioned above, any historic resources that would be preserved on-site would be required to be maintained and reused in an appropriate manner. Similar to Preservation Alternative 2, the proposed senior care component would have the same height and massing and have the same number of units as the proposed project. Under this alternative, the proposed condominium component would be split into two with Building 2 located in between. One of the condominium buildings would consist of 20 residential units while the other building would consist of 10 units. While preservation of Building 2 would reduce the impact to less than significant for that structure, demolition of Building 1 would still have a significant unavoidable project-level and cumulative cultural resources impact. All other impacts would remain the same and this alternative would be required to implement all mitigation measures (AIR-1.1, BIO-1.1, NOI-1.1, NOI-2.1, and TRANS-1.1), Standard Permit Conditions, and Conditions of Approval identified for the proposed project.

Preservation Alternative 4 – Preservation of 1883-1887 West San Carlos Street Building On-Site

Under Preservation Alternative 4, Building 1 (approximately 3,824 square feet) would be retained on-site. Similar to Preservation Alternatives 2 and 3, the proposed senior care component would have the same height and massing and have the same number of units as the proposed project. Under this alternative, an additional 2,176 square feet of ground floor retail space would be proposed for a total of 6,000 square feet of retail space. The residential units of the proposed condominium component would be reduced from 61 units to 35 units. While preservation of Building 1 would reduce the impact to less than significant for that structure, demolition of Building 2 would still have a significant unavoidable project-level and cumulative cultural resources impact. All other impacts would remain the same and this alternative would be required to implement all mitigation measures (AIR-1.1, BIO-1.1, NOI-1.1, NOI-2.1, and TRANS-1.1), Standard Permit Conditions, and Conditions of Approval identified for the proposed project.

Areas of Public Controversy

Areas of public concern include:

- Traffic
- Traffic safety
- Smog, pollutants, and noise from increased traffic
- Parking
- Wastewater impact to homeowners in the area
- Public Services (e.g., schools and police response)
- Building height

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the 1881 West San Carlos project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. Portions of the site are currently unincorporated [Assessor's Parcel Numbers (APN) 274-16-050, -052, -053, -069, and -70]. Therefore, annexation through the Local Agency Formation Commission (LAFCO) would be required. Contact LAFCO@ceo.sccgov.org for more information.

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 is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, significant environmental impacts including growth-inducing impacts, cumulative impacts, mitigation measures, and alternatives. It is not the intent of an EIR to recommend either approval or denial of a project.

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City of San José prepared a Notice of Preparation (NOP) for this Draft EIR. The NOP was circulated to local, State, and federal agencies on December 3, 2020 and comments were accepted through January 8, 2021. 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 joint community and public scoping meeting on December 17, 2020 to discuss the project and solicit public input as to the scope and contents of this Draft EIR. The meeting was held online via Zoom. Appendix H of this Draft EIR includes the NOP and comments received on the NOP.

1.2.2 Draft EIR Public Review and Comment Period

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

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Phone: (408) 535-6872, 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 text, as necessary;
- List of individuals and agencies commenting on the Draft EIR;
- Responses to comments received on the Draft EIR, in accordance with CEQA Guidelines (Section 15088);
- Copies of letters received on the Draft EIR.

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

1.3.1 Notice of Determination

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

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

Since circulation of the NOP, changes have been made to the proposed project. At the time the NOP was published, the project proposed construction of a mixed-use building consisting of two separate components: a condominium component and a senior care component. The condominium component would have up to 61 dwelling units and 6,000 square feet of ground floor retail and the senior care component would have up to 79 memory care and 78 assisted living beds for a total of 157 senior care beds. Currently, the project proposes to up to 61 dwelling units and 6,000 square feet of ground floor retail for the condominium component and up to 109 memory care and 137 assisted living beds for a total of 246 senior care beds for the senior care component. The changes to the proposed project are shown in the table below.

| Summary of Proposed Changes to the Project | | |
|--|---|---|
| Project Component | Original Project | Proposed Project |
| Condominium Units | 61 | 61 |
| Retail Square Footage | 6,000 | 6,000 |
| Senior Care Beds | 157 (79 memory care and 78 assisted living beds) | 246 (109 memory care and 137 assisted living beds) |
| Height (feet) – Senior Care | 59 | 75 |
| Condominium | 85 | 85 |
| Floors – Senior Care | 5 | 7 |
| Condominium | 7 | 6 |
| Total Parking Spaces | 131 | 113 |

2.1.1 Background Information

The approximately 1.23-acre site is comprised of seven parcels (APNs 274-16-049, -050, -051, -052, -053, -069, and -070) located between Brooklyn Avenue and Boston Avenue, north of West San Carlos Street in the City of San José and County of Santa Clara. Refer to Figures 2.1-1 to 2.1-3 for the regional, vicinity, and aerial maps. The site is currently developed with four commercial buildings (totaling 32,847 square feet) and associated parking.¹ The site is also within the West San Carlos Urban Village. The West San Carlos Urban Village Plan, the boundary of which is shown on Figure 2.1-4, was adopted in May 2018. Within the West San Carlos Urban Village Plan, the project site is designated as Urban Village in the Mixed Use Commercial Character Area.² The West San Carlos Urban Village Mixed Use Commercial Character Area boundary is shown on Figure 2.1-5.

The site is designated *Mixed Use Commercial* under the City's General Plan and has two zoning districts. The property at 1881 West San Carlos is located within the *CP Commercial Pedestrian*

¹ While the 1883-1887 West San Carlos Street and the 1891-1895 West San Carlos Street structures contains residential units at the rear and/or the second floor, the applicant has confirmed that all structures on-site are used for commercial space. Qin, Sean. Project Architect, Salvatore Caruso Design Corporation. Personal communications. January 11, 2022.

² The Mixed Use Residential Character Area is an eastern gateway into the Urban Village. The area is envisioned with higher-density mixed-use and residential development drawing energy from nearby Downtown San José and the Diridon Station. Development is proposed to range between three and seven stories with residential uses above a mix of active ground-floor retail. Land uses in this area include Mixed-Use Commercial, Urban Residential, and Urban Village. (Source: City of San José. West San Carlos Urban Village Plan. Adopted May 8, 2019. Page 21.)

Zoning District and the property at 17 Boston Street is located within the *R-M Multiple Residence* Zoning District. The remainder of the site has no designated zoning district as it is currently unincorporated; therefore, annexation through the Local Agency LAFCO would be required.

Currently, the project site can be accessed via three driveways (one on Brooklyn Avenue and two along Boston Avenue). There is one additional driveway along West San Carlos Street specifically for trash pickup.

2.1.2 Proposed Development

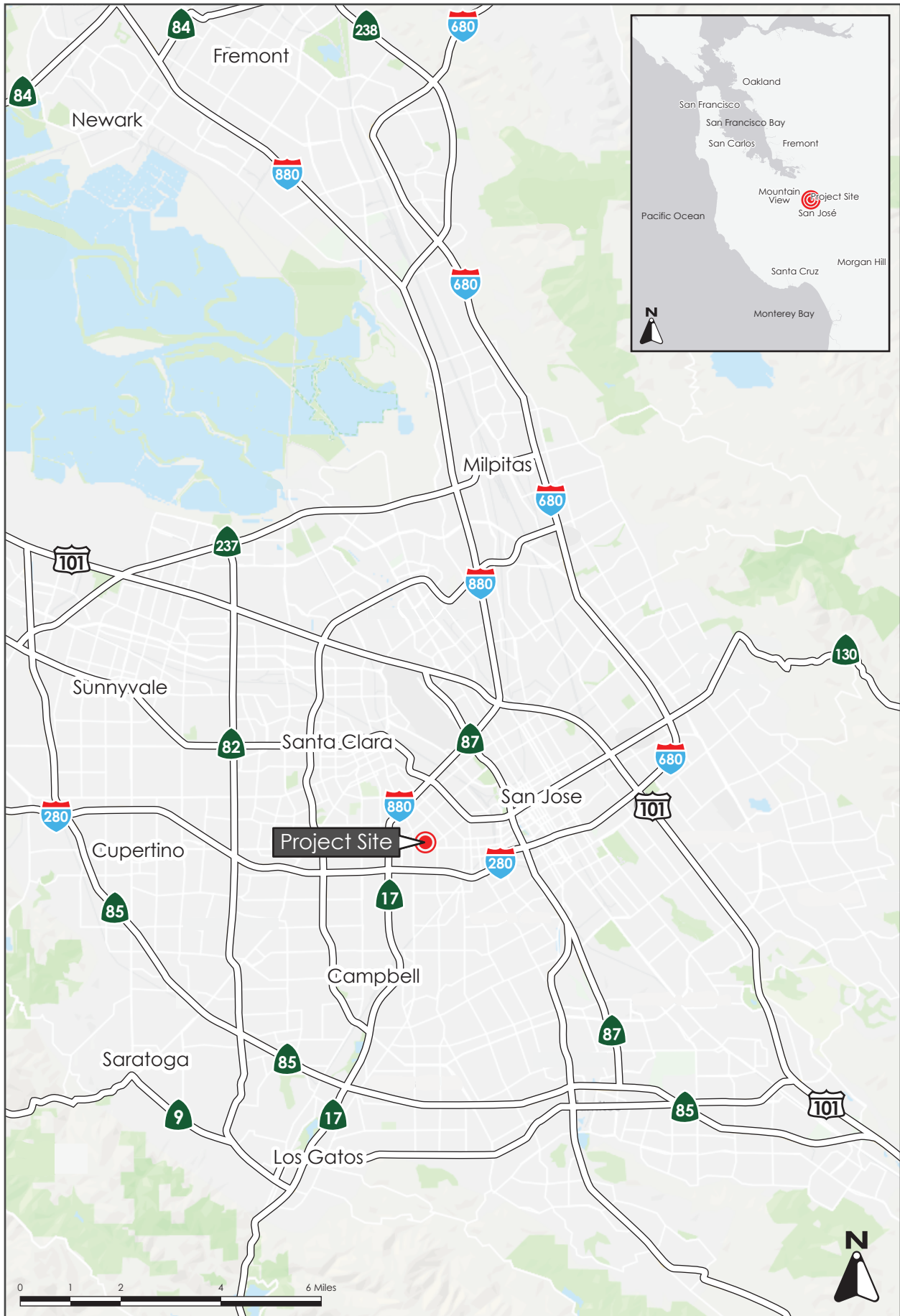
The project includes four planning approvals for:

- Annexing five parcels: APNs 274-16-050, -052, -053, -069 and -070, from the County of Santa Clara to City of San José. (File No. Burbank 44)
- Pre-zoning the five annexed parcels to *CP Commercial Pedestrian* Zoning District and rezoning the parcel with APN 274-16-049 from *R-M Multiple Residence* Zoning District to *CP Commercial Pedestrian* Zoning District. (File No. C20-011)
- Conditional Use Permit (CUP) allowing the demolition of all existing structures on-site and constructing a seven-story, 209,522 square-foot mixed-use development consisting of a 246-bed, 125,451 square-foot residential care facility for the elderly (RCFE), 61 multi-family residential units and 6,000 square-foot ground floor retail space with alternative parking (stackers) on the ground floor and basement on a 1.23-gross acre site. (File No. CP20-020)
- Vesting Tentative Map merging seven lots into one lot and allowing one lot subdivision for condominium purpose to include up to 61 residential condominium units, 209 senior care units, four commercial condominium units, one ground floor parking garage condominium unit for RCFE and one parking garage condominium unit for retail and residential for a total of 67 condominium units. (File No. T20-016)

As proposed, the applicant would demolish the existing commercial buildings on-site and construct one mixed-use building. The mixed-use building would have two separate components: a condominium component and a senior care component as described below. As part of the project, all existing driveways would be removed and a new driveway along Brooklyn Avenue would be created to access the project site. Refer to Figure 2.2-1 for the ground level site plan.

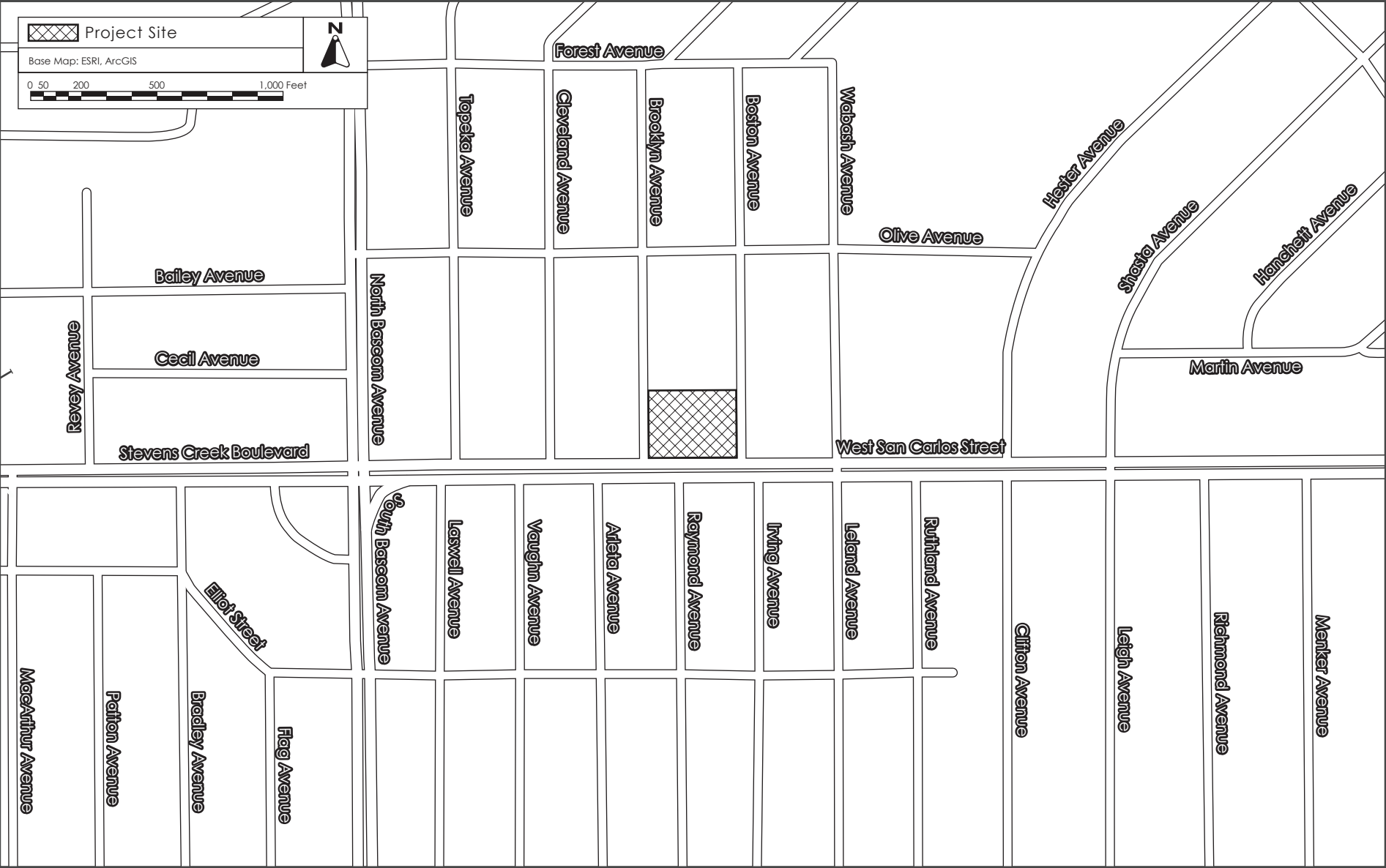
Condominium Component

The condominium component would be six-stories tall (85 feet to the top of the stairs on the roof) with up to 61 dwelling units and 6,000 square feet of ground floor retail along West San Carlos Street. In addition, a 2,000-square foot plaza is proposed at the southwest corner of the project site. A common area and amenity space are proposed on the roof. A total of 113 parking spaces (98 spaces for residences and 15 spaces for retail use) are proposed in the below-grade parking garage. The garage would utilize stackers.



REGIONAL MAP

FIGURE 2.1-1



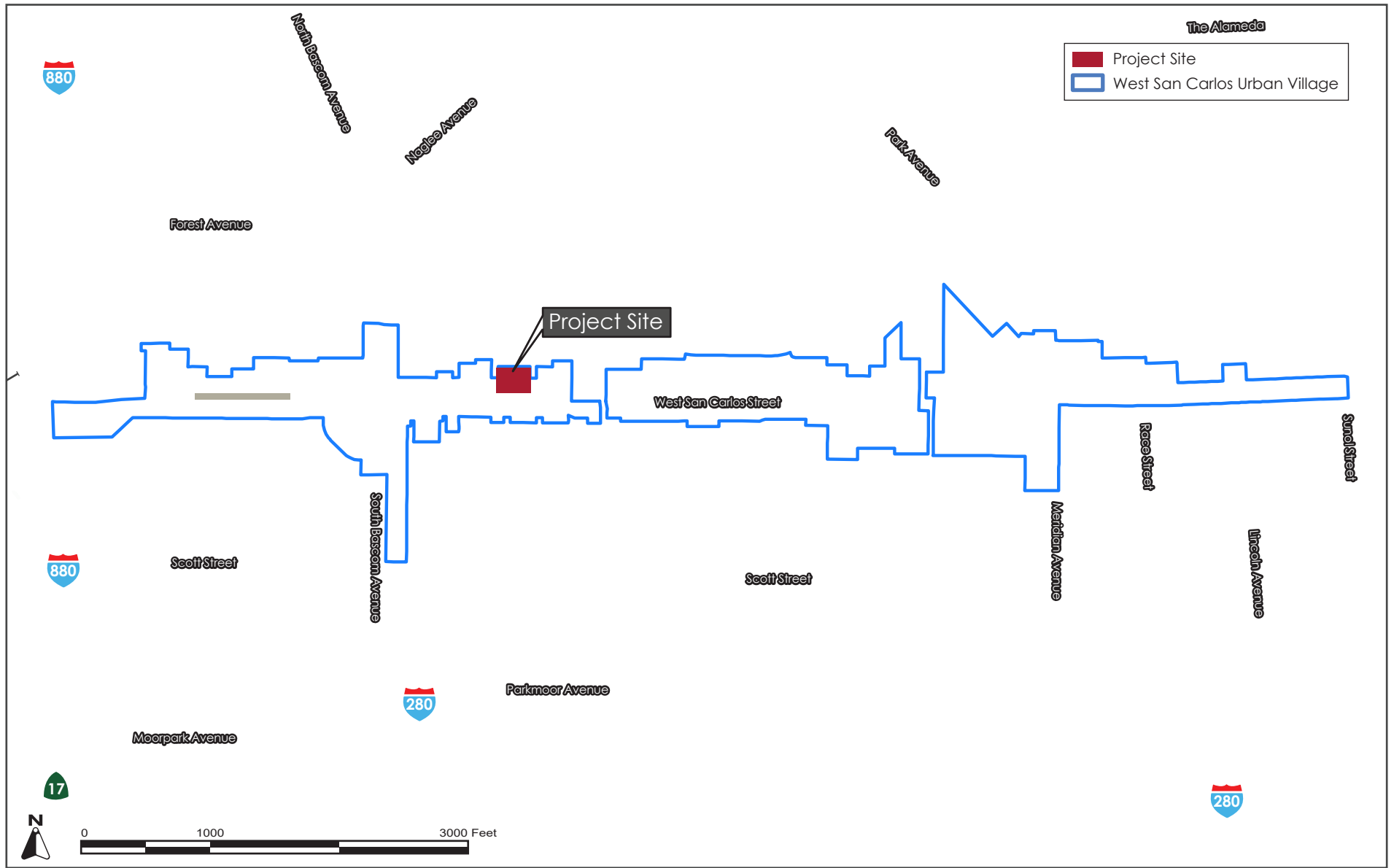
VICINITY MAP

FIGURE 2.1-2



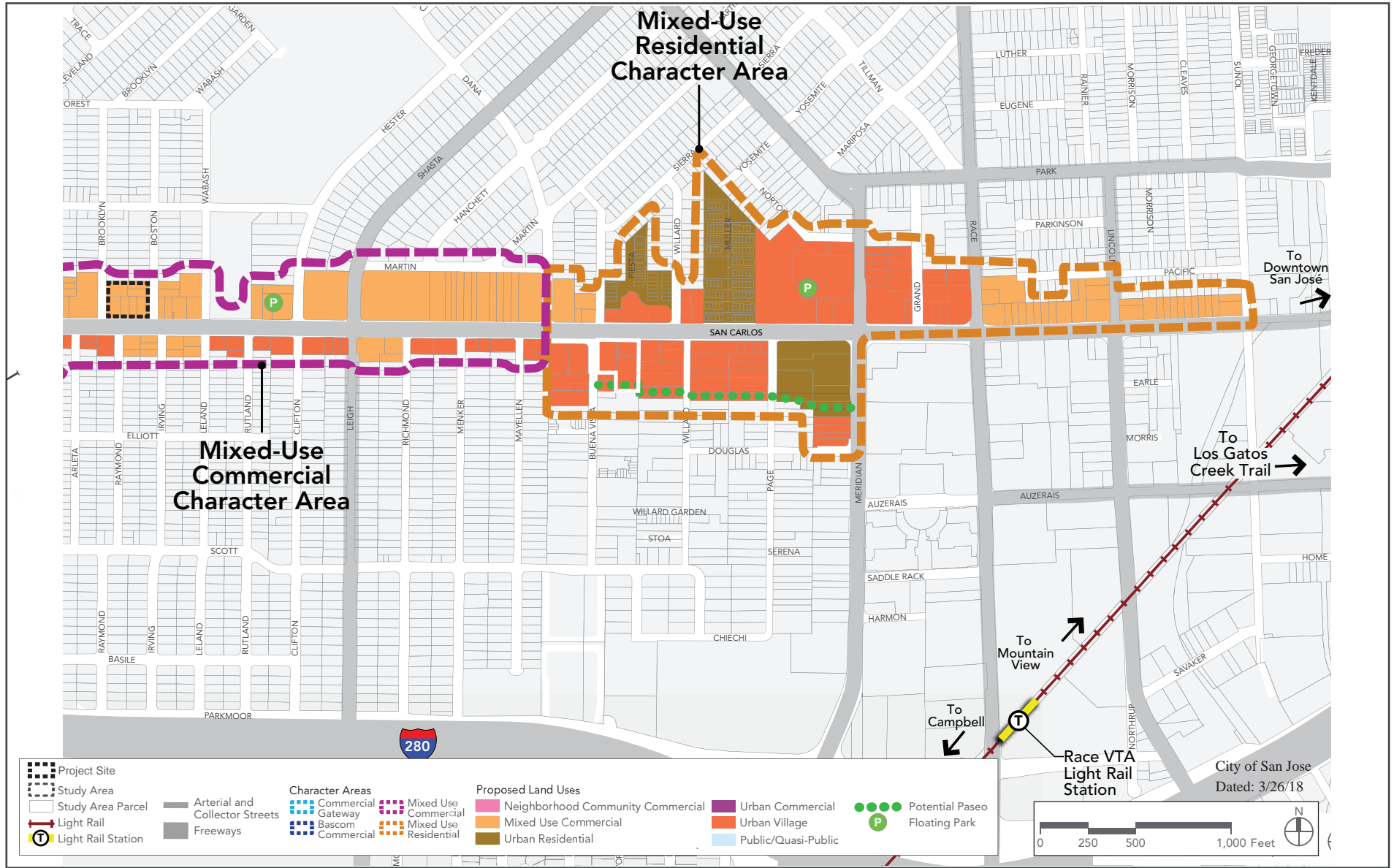
AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.1-3



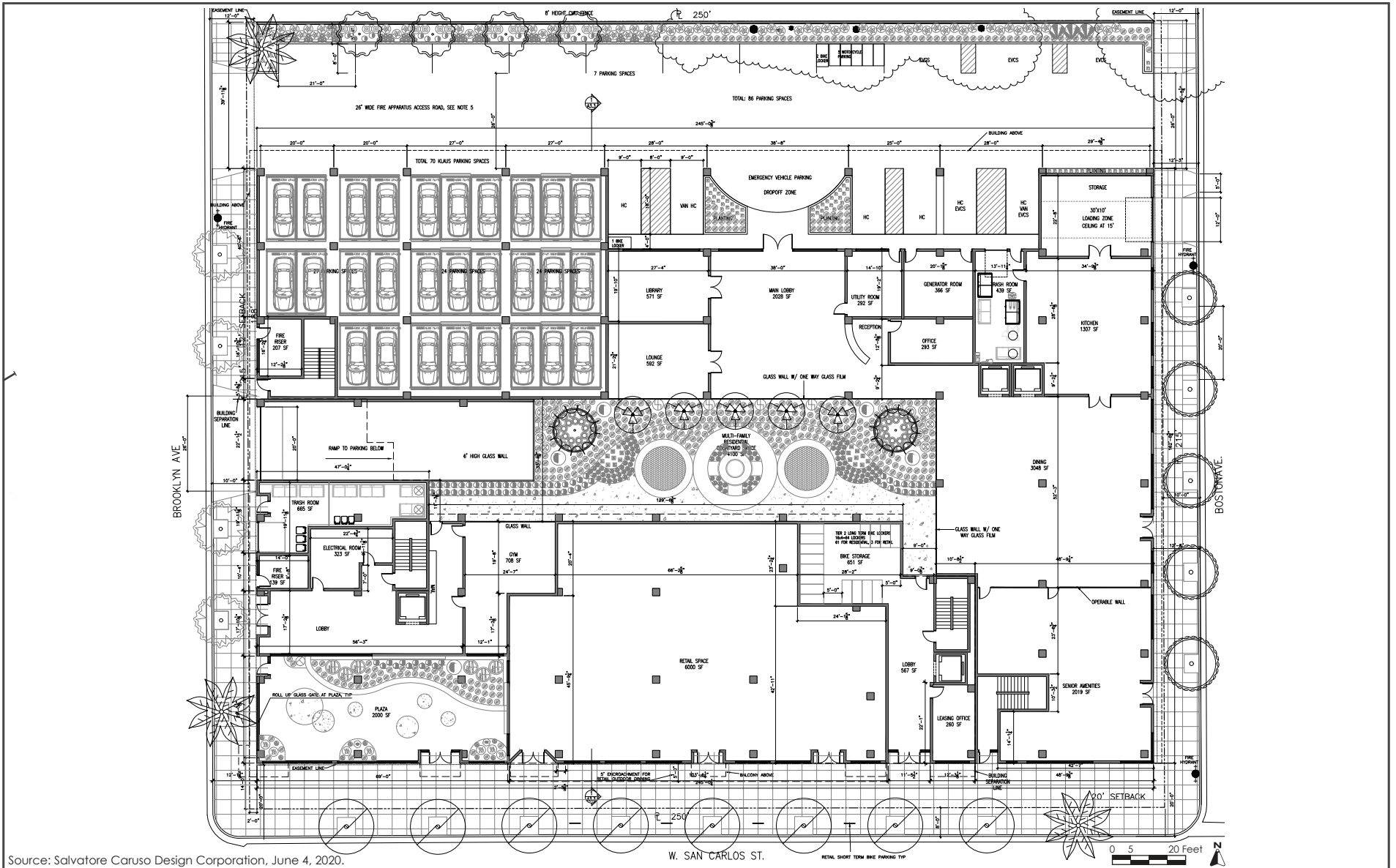
WEST SAN CARLOS URBAN VILLAGE BOUNDARY

FIGURE 2.1-4



WEST SAN CARLOS URBAN VILLAGE MIXED-USE RESIDENTIAL CHARACTER AREA

FIGURE 2.1-5



SITE PLAN - GROUND FLOOR

FIGURE 2.2-1

Senior Care Component

The senior care component would be seven-stories tall (75 feet to the roof) with a total of 246 senior care units (109 memory care and 137 assisted living). The RCFE would be considered as a commercial use. Surface parking would be provided at the back of the building, along with a drop-off zone, to support the senior care facility. A total of 86 parking spaces (surface lot and below-grade parking) are proposed. Refer to Figure 2.2-2 for the elevations.

Mechanical Equipment

The project would include utility rooms and a boiler room within the underground parking garage. Additionally, an electrical room is proposed on the ground floor. A stand-by emergency diesel generator is proposed on the ground floor of the senior care component.

General Plan and Zoning Designations

The site is designated *Mixed Use Commercial* under the City's General Plan and has two zoning designations. The property at 1881 West San Carlos Street is located within the *CP Commercial Pedestrian* Zoning District and the property at 17 Boston Street is located within the *R-M Multiple Residence* Zoning District. The remainder of the site has no designated zoning as it is currently unincorporated. While portions of the site are currently unincorporated, it is within the City's Sphere of Influence, so annexation through LAFCO would be required along with rezoning of all the parcels.

The *Mixed Use Commercial* designation is intended to accommodate a mix of commercial and residential uses. New development of a property with this designation should include commercial space equivalent to at least a 0.5 FAR for residential/commercial mixed-use projects with an overall FAR of up to 4.0, and up to 50 dwelling units per acre for residential density. Appropriate commercial uses include neighborhood retail, mid-rise office, medium scale hospitals or other health care facilities, and medium scale private community gathering facilities.

As mentioned above, the property at 1881 West San Carlos Street is zoned *CP Commercial Pedestrian* and the property at 17 Boston Street is zoned *R-M Multiple Residence District*. The *CP Commercial Pedestrian* Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The *CP Commercial Pedestrian* Zoning District also encourages mixed residential/commercial development where appropriate and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.

The *R-M Multiple Residence* Zoning District is intended to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development. All parcels on-site would be rezoned to the *CP Commercial Pedestrian* Zoning District.



Source: Salvatore Caruso Design Corporation, June 4, 2020.

ELEVATIONS

FIGURE 2.2-2

Additionally, the senior care component would require a Conditional Use Permit (CUP) while the residential/retail component of the project and the alternative parking (e.g., mechanical vehicle stackers) would require a Special Use Permit (SUP). In accordance with the City's Municipal Code Section 20.100.140.B, the unified process will be used for this project and the SUP would be incorporated into the CUP for the project. A separate SUP would not be required.

Green Building Measures

The City requires that the project be built in accordance with the California Green Building Standards Code (CALGreen) requirements which includes design provisions intended to minimize wasteful energy consumption and the most recent California Building Code (CBC). The proposed development would be designed to achieve LEED Silver certification consistent with San José Council Policy 6-32, though no specific building measures have been identified at this time.

Transportation Demand Management Program

Transportation Demand Management (TDM) programs are intended to reduce vehicle trips and parking demand by promoting the use of multimodal transportation options. By implementing TDM programs, land use authorities would use available transportation resources more efficiently. As discussed in *Section 3.17 Transportation* and Appendix G of this document, the project would be required provide ride-sharing programs as part of its TDM plan.

Construction

Project construction is estimated to begin September 2022 for a period of 21 months (446 construction workdays). The earliest the project would be operational would be 2025.

2.2 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the Draft EIR must identify the objectives sought by the proposed project. The objectives of the project are:

1. Provide a project that meets the Envision San José 2040 General Plan goals of providing housing at higher densities and the City's West San Carlos Urban Village Plan by increasing employment and residential capacities.
2. Provide housing that responds to the needs of the community including seniors and families in keeping with the Envision San José 2040 General Plan policies for social equity and diversity and the development of multi-generational housing.
3. Support San José's Environmental Stewardship goals by providing a modern LEED building with sustainable energy and water usage, natural ventilation, and electric vehicle (EV) parking.
4. Create a senior care facility and ground floor retail to emphasize economic development within the City to support San José's growth as a center of innovation and regional employment. Growing San José's role as an employment center; increase use of the regional

transit systems and supporting the City’s fiscal health.

5. Promote the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth activity to an innovative workforce and consistent with the General Plan’s environmental goals.
6. Intensify an existing low-density land use into high-density, mixed-use urban commercial and residential per the Urban Village Plan.
7. Provide bicycle parking for residents to help support the goals of the Envision San José 2040 General Plan.
8. Per the West San Carlos Urban Village Plan, create “new commercial and mixed uses to enhance the circulation within the village”, to reflect Goal UD-1 and UD-3.3 by creating active retail on the ground floor uses along West San Carlos Street.

2.3 USES OF THE EIR

This Draft EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project. The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this Draft EIR:

- Annexation³
- Prezoning and Rezoning
- Conditional Use Permit
- Vesting Tentative Map
- Department of Public Works Clearances

³ In Santa Clara County, a city annexation or reorganization (i.e., annexation to a city and detachment from one or more special districts) proposed within a city’s urban service area may qualify for a “city-conducted” process, pursuant to Government Code §56757. Such proposals are not heard by LAFCO, but by the City Council of the appropriate city. After the City Council hearing and approval process, the proposal is forwarded to LAFCO staff for finalization and recordation of a Certificate of Completion. The annexation or reorganization becomes effective on the date that the Certificate of Completion is recorded by LAFCO staff or on the date specified in the Certificate of Completion.

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

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

The discussion for each environmental subject includes the following subsections:

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

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

- **Project Impacts** – This subsection discusses the project’s impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).
- **Cumulative Impacts** – This subsection discusses the project’s cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts “when the project’s incremental effect is cumulatively considerable.” The discussion does not need to be in as great detail as is necessary for project impacts, but is to be “guided by the standards of practicality and reasonableness.” The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this EIR.

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present, and

probable future projects or a summary of projections from an adopted general plan or similar document (CEQA Guidelines Section 15130(b)(1)). This EIR uses the list of projects approach.

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

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

| Table 3.0-1: Summary Project List Within One-Mile Radius | | |
|---|----------------------------------|---|
| Name | Location | Description |
| Approved But Not Yet Constructed/Occupied | | |
| West San Carlos Street Mixed-Use | 1530-1544 West San Carlos Street | Construction of two seven-story, mixed-use buildings comprised of 173 residential units and communal space, and approximately 17,836 square feet of commercial uses. |
| 259 Meridian | 259 Meridian Avenue | Construction of a four to seven-story mixed-use building with up to 226 residential units and approximately 1,400 square feet of ground-floor commercial square feet. |
| Page Street Housing | 329, 341, and 353 Page Street | Construction of a five-story multi-family residential building with 81 affordable studio apartments and one three-bedroom manager's unit, alternative parking arrangements, |

3.1 AESTHETICS

Public comments received during the NOP scoping process pertained to the height of the proposed mixed-use building in relation to surrounding neighborhoods and skyline. The height of the project in relation to surrounding neighborhoods is addressed in Section 3.1.2.1 below.

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.⁴

SB 743 also states that aesthetic impacts do not include impacts on historical or cultural resources. Further, it clarifies that local governments retain their ability to regulate a project's transportation, aesthetics, and parking impacts outside of the CEQA process. This law applies to the project because 1) the project would construct a mixed-use building with residential and senior care units and approximately ground floor retail and 2) the project is located within a transit priority area.⁵

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no State-designated scenic highways in San José. Interstate

⁴ An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations." A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ". October 14, 2014. Accessed September 5, 2021.

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

⁵ Metropolitan Transportation Commission. Transit Priority Areas (2017). Accessed September 5, 2021.

<https://www.arcgis.com/home/webmap/viewer.html?layers=370de9dc4d65402d992a769bf6ac8ef5>.

280 from the San Mateo County line to State Route (SR) 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.⁶

In Santa Clara County, the one State-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

City of San José

Municipal Code

The City's Municipal Code includes several regulations associated with protection of the City's visual character and control of light and glare. For example, Chapter 13.32 (Tree Removal Controls) regulates the removal of trees on private property within the City, in part to promote the scenic beauty of the city.

Several sections of the Municipal Code include controls for lighting of signs and development adjacent to residential properties. These requirements call for floodlighting to have no glare and lighting facilities to be reflected away from residential use so that there will be no glare.

The City's Zoning Ordinance (Title 20 of the Municipal Code) includes design standards, maximum building height, and setback requirements.

City Design Guidelines and Design Review Process

Nearly all new private development is subject to a design review process (architecture and site planning). The design review process is used to evaluate projects for conformance with adopted design guidelines and other relevant policies and ordinances. The City prepared and adopted guidelines to assist those involved with the design, construction, review and approval of development in San José. Adopted design guidelines include: Residential, Industrial, Commercial, Downtown/Historic, and Downtown Design Guidelines.

City Council Policy 4-2: Lighting

Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks. Light is to be directed downward and outward. New and replacement streetlights should also offer the ability to change the color of the light from full spectrum (appearing white or near white) in the early evening to a monochromatic light in the later hours of the night and early morning. At a minimum, full-spectrum lights should be able to be dimmed by at least 50 percent in late night hours.

⁶ California Department of Transportation. "Scenic Highways." Accessed September 5, 2021.
<https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>.

City Council Policy 4-3: Private Outdoor Lighting on Private Developments

Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. Low-pressure sodium lighting is required unless a photometric study is done and the proposed lighting referred to Lick Observatory for review and comment. One of the purposes of this policy is to provide for the continued enjoyment of the night sky and for continuing operation of Lick Observatory, by reducing light pollution and sky glow. The Downtown area is exempt from this policy.

Envision San José 2040 General Plan

The 2040 General Plan identifies “gateways”, freeways, and rural scenic corridors where preservation and enhancement of views of the natural and man-made environment are crucial. The following policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to aesthetics and are applicable to the project.

| General Plan Policies - Aesthetics | |
|---|---|
| CD-1.1 | Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses. |
| CD-1.2 | Install and maintain attractive, durable, and fiscally- and environmentally- sustainable urban infrastructure to promote the enjoyment of space developed for public use. Include attractive landscaping, public art, lighting, civic landmarks, sidewalk cafes, gateways, water features, interpretive/way-finding signage, farmers markets, festivals, outdoor entertainment, pocket parks, street furniture, plazas, squares, or other amenities in spaces for public use. When resources are available, seek to enliven the public right-of-way with attractive street furniture, art, landscaping and other amenities. |
| 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, Villages, Corridors, or along Main Streets, commercial and mixed-use building frontages should be placed at or near the street-facing property line with entrances directly to the public sidewalk. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street façade and pedestrian access to buildings. |
| CD-1.19 | Encourage the location of new and relocation of existing utility structures into underground vaults or within structures to minimize their visibility and reduce their potential to detract from pedestrian activity. When above-ground or outside placement is necessary, screen utilities with art or landscaping. |
| 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. |

| General Plan Policies - Aesthetics | |
|---|--|
| 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. |
| CD-7.3 | Review development proposed within an Urban Village Area prior to approval of an Urban Village Plan for consistency with any applicable design policies pertaining to the proposed use. Review proposed mixed-use projects that include residential units for consistency with the Design Policies for Urban Villages. Following adoption of an Urban Village Plan, review new development for consistency with design policies included within the Urban Village Plan as well as for consistency with any other applicable design policies. |

3.1.1.2 *Existing Conditions*

Project Site

Photos 1 to 3 show the project site from different viewpoints and Photos 3 to 6 show the surrounding areas as described below. Figure 3.1-1 shows the location from where the photos were taken and the direction of view.

The 1.23-acre site is currently developed with four commercial buildings and associated parking. The project site is bounded by Brooklyn Avenue to the west, residences to the north, Boston Avenue to the east, and West San Carlos Street to the south. The buildings on-site range from one- to two-stories. The buildings are set back from West San Carlos Street by a sidewalk and a surface parking lot is located at the rear.

The one-story, rectangular-shaped commercial building located at 1881 West San Carlos Street was constructed in 1955. The structure is of reinforced concrete construction with a flat roof. A large sign is located at the corner of the eastern building façade (Photo 1). An awning is located along the southern building façade (the entrance to the building) and along the eastern building façade.

Located west of 1881 West San Carlos Street building is another one-story commercial building at 1883-1887 West San Carlos Street. This building was constructed circa 1925 and has art-deco architectural features. The building has a flat roof with a parapeted front façade. There are decorative elements located along the store frontage facing West San Carlos Street. An addition to the building was constructed in 1950 which added a third store front to the structure. The addition consists of the same decorative façade. Additionally, the 1883-1887 West San Carlos Street structure extends to the rear of the property and connects to an existing residence that is currently used as commercial space.⁷ The residence was constructed circa 1908 and has a hipped roof.

To the west is a two-story Neoclassical structure (1891-1895 West San Carlos Street) constructed circa 1925. The ground floor consists of retail space while the second floor and a portion of the ground floor (at the rear) contains multi-family units. The residential units on-site are used as

⁷ Qin, Sean. Project Architect, Salvatore Caruso Design Corporation. Personal communications. January 11, 2022.



Photo 1: View of the project site, looking northwest from West San Carlos Street.



Photo 2: View of the project site, looking north from West San Carlos Street.

PHOTOS 1 & 2



Photo 3: View of the project site, looking northeast from West San Carlos Street.



Photo 4: View of the surrounding development, looking northwest from Brooklyn Avenue.

PHOTOS 3 & 4



Photo 5: View of the surrounding development, looking east from Boston Avenue.



Photo 6: View of the surrounding development, looking south from West San Carlos Street.

PHOTOS 5 & 6

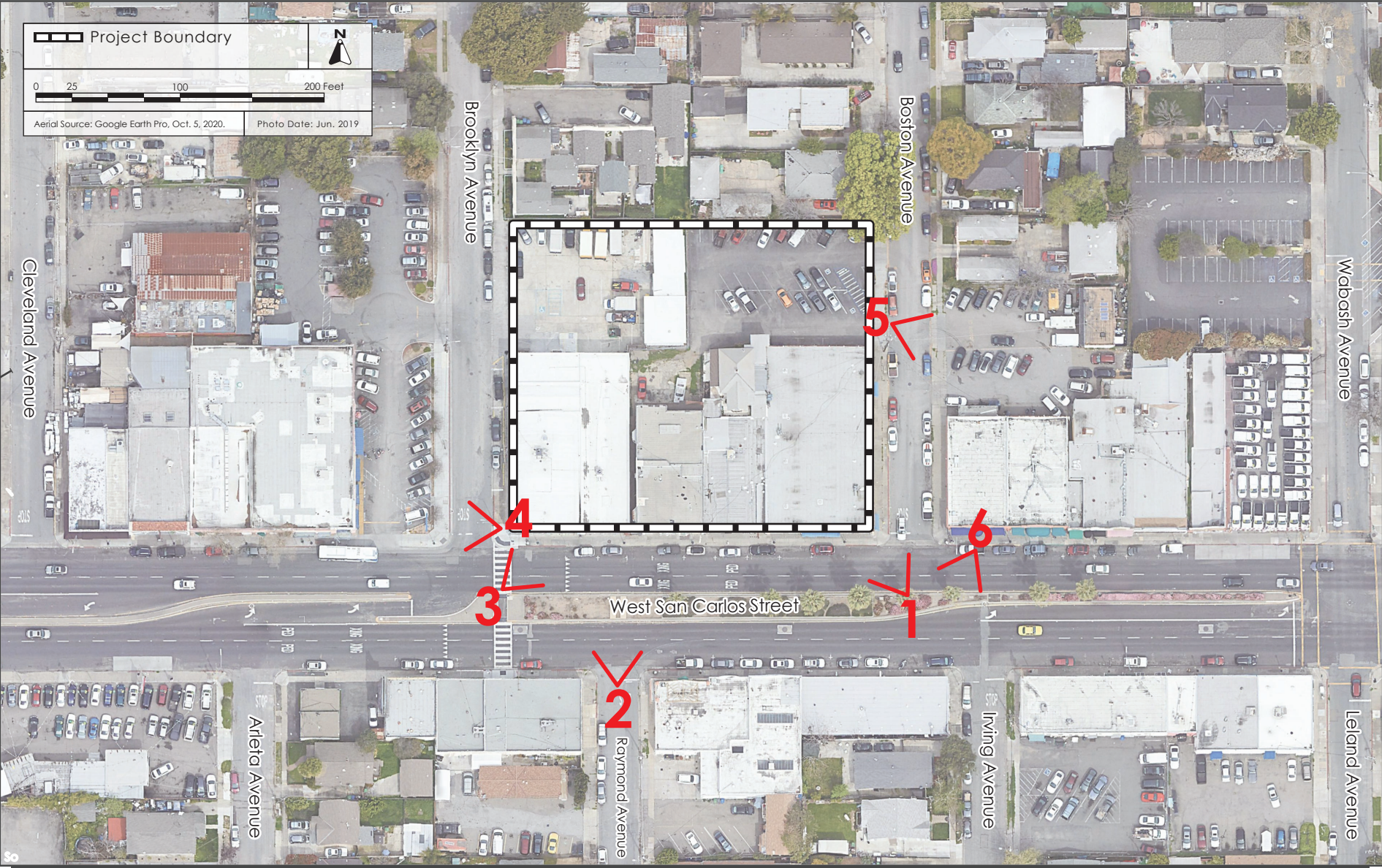


PHOTO LOCATIONS

FIGURE 3.1-1

commercial space.⁸ There are two bay windows located on the second floor along the southern façade. The building is primarily stucco and is built against the 1883-1887 West San Carlos Street building. An alleyway is located west of the 1893 West San Carlos Street storefront. Located west of the 1891-1895 West San Carlos Street building is a one-story commercial structure (1897-1899 West San Carlos Street) constructed in 1939. The building is two-stories tall at the rear.

The building is primarily stucco with a flat roof at the front and at the rear. There are brown tinted windows located along the western building façade. Two businesses occupy the building. The building entrances are located along the southern building façade and are surrounded by windows on both sides. The two-story rear addition was added in 1948 and is utilitarian in character. There are stairs located on the northern building façade which provides access to the second floor. Refer to Photos 2 and 3.

Surrounding Land Uses

Development in the area consists of commercial businesses and residences. Located immediately west of the project site is Brooklyn Avenue, a two-lane, north-south roadway, and a one-story commercial building and associated surface parking lot (Photo 4). The building is primarily stucco with a flat roof and windows covered with store advertisements located along the southern and eastern building façade. Immediately north of the site is a bungalow court and single-family residences. All residential buildings in the immediate vicinity consist of a long driveway along the side of the building and are set back from the roadways by a sidewalk and landscaping. East of the project site is Boston Avenue, a two-lane north-south roadway, and residences and commercial buildings. The commercial buildings located east front West San Carlos Street and contain surface parking at the rear (Photo 5). The buildings are rectangular-shaped with false fronts. Located south of the project site is West San Carlos Street, a divided four-lane east-west roadway. South of West San Carlos are one-story commercial businesses that are primarily stucco with flat roofs (Photo 6). The proposed building at six to seven stories would be taller than the surrounding buildings.

Scenic Views

Based on the City's General Plan, views of hillside areas, including the foothills of the Diablo Range, Silver Creek Hills, Santa Teresa Hills, and Santa Cruz Mountains are scenic features in the City. The project site and surrounding areas are relatively flat and surrounded by urban development. Therefore, the project area has minimal to no scenic views of the Diablo foothills to the east, Santa Teresa Hills to the south, Santa Cruz Mountains to the west and the Silver Creek hills to the southeast. Natural scenic resources, such as rock outcroppings, are not present on the project site or in the project area.

Light and Glare

Sources of light and glare on-site and in the vicinity of the project site include streetlights, parking lot lights, vehicular headlights, internal/external building lights, and reflective building surfaces and windows.

⁸ Qin, Sean. Project Architect, Salvatore Caruso Design Corporation. Personal communications. January 11, 2022.

3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on aesthetics, except as provided in Public Resources Code Section 21099, would the project:

- a) Have a substantial adverse effect on a scenic vista?
- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?
- c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?⁹ If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

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

The proposed project would meet the criteria of SB 743 because 1) the project would construct a mixed-use project and 2) the project is located within a transit priority area. Consistent with Public Resources Code Section 21099, the project would have a less than significant aesthetics impact. While the project would have a less than significant aesthetic impact, this Draft EIR addresses the CEQA checklist questions for informational purposes given the size and location of the project.

3.1.2.1 *Project Impacts*

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

The General Plan defines scenic vistas or resources in the City of San José as broad views of the Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands. The hills are visible from the project area, but there is no recognized scenic vista. The project site is located in an urbanized area of San José and is surrounded by residential and commercial development. Therefore, construction of a six- to seven-story building would not diminish scenic views in the project area. Implementation of the proposed project would not result in a significant impact on a scenic vista. **(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?

⁹ Public views are those that are experienced from publicly accessible vantage points.

The project site is not located near or within a designated State scenic highway. The nearest State scenic highway is SR 9 which is located approximately seven miles southwest of the project site. Therefore, implementation of the proposed project would not damage any scenic resources, such as trees, rock outcroppings, and historic buildings within a State scenic highway. **(Less than Significant Impact)**

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

The project site is located in an urbanized area of the City surrounded by residences and commercial development. The City's Zoning Ordinance does not include regulations governing scenic quality. The proposed project would be required to comply with Title 20 of the City's Municipal Code and would be subject to a design review process (prior to the issuance of development permits) to ensure that it conforms to all adopted design guidelines and other relevant policies and ordinances. Therefore, the proposed project would not conflict with applicable zoning and other regulations governing scenic quality. **(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?

As mentioned previously, sources of light and glare on-site and in the vicinity of the project site include streetlights, parking lot lights, vehicular headlights, internal/external building lights, and reflective building surfaces and windows. The proposed project would include internal/external building lights, courtyard lighting, parking lot lights, and garage lighting. The proposed project would be required to comply with applicable General Plan policies and City Council Policies 4-2 and 4-3. Council Policy 4-2 requires dimmable, programmable lighting for new streetlights, which would control the amount and color of light shining on streets and sidewalks and Council Policy 4-3 requires private development to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. In addition, the project would go through a design review process and would be reviewed for consistency with the City's Design Guidelines and other applicable codes, policies, and regulations. For these reasons, the proposed project would not significantly impact adjacent land uses or roadways with increased nighttime light levels or daytime glare from building materials. **(Less than Significant Impact)**

3.1.2.2 Cumulative Impacts

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

The geographic area for cumulative aesthetic impacts is limited to the project site and adjacent development in which the project site would be visible. The project site is not located along or visible from a designated State scenic highway or a scenic vista. Although the project would alter the visual character of the project area, the project would be consistent with the existing land uses in the area

(e.g., retail and residential uses). Additionally, the project would comply with the City's Design Guidelines and the City's Outdoor Lighting on Private Development Policy to reduce light and glare. For these reasons the project would not result in a cumulatively considerable contribution to a cumulative aesthetic impact. **(Less than Significant Cumulative Impact)**

3.2 AGRICULTURE AND FORESTRY RESOURCES

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland.

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments.

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CAL FIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.¹⁰ Programs such as CAL FIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.¹¹

3.2.1.2 *Existing Conditions*

The project site is located in a developed area and is not occupied by or adjacent to agricultural land uses. The project site is classified as Urban and Built-Up Land¹² and is not under a Williamson Act Contract.¹³

¹⁰ Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

¹¹ California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed September 1, 2021. <http://frap.fire.ca.gov/>.

¹² California Department of Conservation. Important Farmland Finder. Accessed September 1, 2021. <https://maps.conservation.ca.gov/DLRP/CIFF/>.

¹³ County of Santa Clara Department of Planning and Development. Williamson Act Properties. Accessed September 1, 2021. <https://www.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce>.

3.2.1.3 *Impact Discussion*

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

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

3.2.1.4 *Project Impacts*

-
- a) **Would the project convert 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 designated Urban and Built-Up Land and would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses. **(No Impact)**

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

The project site is not zoned for agricultural uses nor is it subject to a Williamson Act contract.¹⁴ Therefore, implementation of the proposed project would not conflict with existing zoning for agricultural operations or conflict with a Williamson Act contract. **(No Impact)**

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

The project site is not zoned as forest land, timberland, or timberland zoned Timberland Production. For this reason, implementation of the project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. **(No Impact)**

¹⁴ Department of Planning and Development. *Williamson Act Properties*. Accessed March 2, 2021. <https://www.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce>.

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

The project site is fully developed and does not contain land uses that could serve as forest land. Therefore, the project would not result in the conversion of forest land to non-forest use. **(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 discussed above, the project site is not zoned as forest land. The project site is located within an urbanized area and would not result in a loss of forest land or convert forest land to non-forest use. **(No Impact)**

3.2.1.5 *Cumulative Impacts*

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

The geographic area for cumulative agricultural and forestry resource impacts is the County of Santa Clara. As discussed above, the project would have no impact on agricultural or forest resources; therefore, the project would not result in a cumulatively considerable contribution to agricultural and forest resources impact. **(No Cumulative Impact)**

3.3 AIR QUALITY

The following discussion is based upon an Air Quality Assessment prepared by Illingworth & Rodkin, Inc. in June 2021. This report is attached as Appendix A to this document. Public comments received during the NOP scoping process pertained to smog and pollutants from project traffic. The traffic related emissions impacts from project operation is addressed in Section 3.3.2.1 below.

3.3.1 Environmental Setting

3.3.1.1 *Background Information*

Criteria Pollutants

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone (O₃), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead. Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 3.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

| Table 3.3-1: Health Effects of Air Pollutants | | |
|--|---|---|
| Pollutants | Sources | Primary Effects |
| Ozone (O ₃) | Atmospheric reaction of organic gases with nitrogen oxides in sunlight | <ul style="list-style-type: none">• Aggravation of respiratory and cardiovascular diseases• Irritation of eyes• Cardiopulmonary function impairment |
| Nitrogen Dioxide (NO ₂) | Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions | <ul style="list-style-type: none">• Aggravation of respiratory illness• Reduced visibility |
| Fine Particulate Matter (PM _{2.5}) and Coarse Particulate Matter (PM ₁₀) | Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions | <ul style="list-style-type: none">• Reduced lung function, especially in children• Aggravation of respiratory and cardiorespiratory diseases• Increased cough and chest discomfort• Reduced visibility |
| Toxic Air Contaminants (TACs) | Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products | <ul style="list-style-type: none">• Cancer• Chronic eye, lung, or skin irritation• Neurological and reproductive disorders |

High O₃ levels are caused by the cumulative emissions of reactive organic gases (ROG) and NO_x. These precursor pollutants react under certain meteorological conditions to form high O₃ levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to

reduce O₃ levels. The highest O₃ levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM₁₀) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM_{2.5}). Elevated concentrations of PM₁₀ and PM_{2.5} are the result of both region-wide emissions and localized emissions.

Toxic Air Contaminants

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).¹⁵ Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

Sensitive Receptors

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

3.3.1.2 *Regulatory Framework*

Federal and State

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, O₃, CO, SO_x, NO_x, and lead.

¹⁵ California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed August 24, 2021. <https://www.arb.ca.gov/research/diesel/diesel-health.htm>.

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

Risk Reduction Plan

To address the issue of diesel emissions in the State, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce DPM (in addition to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and NO_x.

Regional

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how State and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.¹⁶

CEQA Air Quality Guidelines

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

¹⁶ BAAQMD. *Final 2017 Clean Air Plan*. April 19, 2017. Accessed August 24, 2021. <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>.

City of San José

Various policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and transit access improvements; parking strategies that reduce automobile travel through parking supply and pricing management; and requirements for Transportation Demand Management programs for large employers.

| General Plan Policies - Air Quality | |
|--|---|
| MS-10.1 | Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to State and federal standards. Identify and implement feasible air emission reduction measures. |
| 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. |
| MS-10.5 | In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives. |
| 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. |
| 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. |
| 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 a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type. |
| MS-13.2 | Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board’s air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations. |

3.3.1.3 Existing Conditions

The Bay Area is considered a non-attainment area for ground-level O₃ and PM_{2.5} under both the federal Clean Air Act and State Clean Air Act. The area is also considered nonattainment for PM₁₀ under the State act, but not the federal act. The area has attained both State and federal ambient air quality standards for CO. Table 3.3-2 shows violations of State and federal standards at the monitoring station in downtown San José (the nearest monitoring station to the project site) during the 2017-2019 period (the most recent years for which data is available).

| Table 3.3-2: Ambient Air Quality Standards Violations and Highest Concentrations | | | | |
|--|-----------------|-------------------------|------|------|
| Pollutant | Standard | Days Exceeding Standard | | |
| | | 2017 | 2018 | 2019 |
| SAN JOSÉ STATION | | | | |
| Ozone | State 1-hour | 3 | 0 | 1 |
| | Federal 8-hour | 4 | 0 | 2 |
| Carbon Monoxide | Federal 8-hour | 0 | 0 | 0 |
| | State 8-hour | 0 | 0 | 0 |
| Nitrogen Dioxide | State 1-hour | 0 | 0 | 0 |
| PM ₁₀ | Federal 24-hour | 0 | 0 | 0 |
| | State 24-hour | 6 | 4 | 4 |
| PM _{2.5} | Federal 24-hour | 6 | 15 | 0 |
| Source: Bay Area Air Quality Management District. “Annual Bay Area Air Quality Summaries.” Accessed August 24, 2021. http://www.baaqmd.gov/about-air-quality/air-quality-summaries . | | | | |

The nearest sensitive receptor is the single-family residence located five feet north of the project site. There are additional sensitive receptors located west, south, and east of the project site. In addition, Luther Burbank School is located approximately 350 feet east of the project site.

3.3.2 Impact Discussion

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

- Conflict with or obstruct implementation of the applicable air quality plan?
- 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?
- Expose sensitive receptors to substantial pollutant concentrations?
- Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

3.3.2.1 Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM_{2.5}. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.3-3 below.

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

3.3.2.2 Project Impacts

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

2017 Clean Air Plan

The proposed project would not conflict with the 2017 CAP because it would be smaller than the BAAQMD CEQA Air Quality Guidelines Operational Criteria Pollutant Screening Size of 451 dwelling units for “general condo/townhouse”, 657 dwelling units for “congregate care facility”, and 99,000 square feet for “strip mall”. In addition, the project is considered urban infill and would be located near employment centers and near transit with regional connections.

Since the proposed project would not exceed any operational-related criteria air pollutants thresholds, the project would not be required to incorporate project-specific control measures listed in the 2017 CAP. Therefore, implementation of the project would not conflict with the 2017 Clean Air Plan.

Construction Criteria Pollutant Emissions

The California Emissions Estimator model (CalEEMod) Version 2020.4.0 was used to estimate emissions from project construction. The project's land use types and sizes, as well as the construction schedule, were input into CalEEMod. The CARB Emission FACTors 2021 (EMFAC2021) model was used to estimate construction traffic emissions from worker trips, vendor deliveries, and material hauling trips.

The following proposed land uses were input into CalEEMod, which included 61 dwelling units entered as "Condo/Townhouse", 246 dwelling units entered as "Congregate Care (Assisted Living)", 6,000 square feet entered as "Strip Mall", 113 parking spaces entered as "Enclosed Parking Structure", and 86 parking spaces entered as "Parking Lot". The project equipment list and schedule were based on data provided by the applicant. The construction schedule assumes that the project would begin construction in September 2022 for approximately 21 months (446 construction workdays). Traffic-related emissions were based on CalEEMod estimates and haul trips were calculated based on the estimated demolition material to be exported and soil material import/export, and the estimated cement and asphalt truck trucks (refer to Appendix A of this document for more information). Table 3.3-4 shows the estimated daily air emissions from construction of the proposed project.

| Table 3.3-4: Construction Emissions from the Project | | | | |
|--|------------|-----------------------|------------------------|-------------------------|
| Description | ROG | NO_x | PM₁₀ | PM_{2.5} |
| Construction Emissions Per Year (Tons) | | | | |
| 2023 | 0.05 | 0.35 | 0.02 | 0.01 |
| 2024 | 0.65 | 1.20 | 0.06 | 0.05 |
| 2025 | 1.76 | 0.19 | 0.01 | 0.01 |
| Annualized Daily Construction Emissions Per Year (Pounds Per Day) | | | | |
| 2023 (102 construction workdays) | 0.95 | 6.81 | 0.41 | 0.29 |
| 2024 (365 construction workdays) | 3.55 | 6.59 | 0.33 | 0.27 |
| 2025 (141 construction workdays) | 24.94 | 2.66 | 0.16 | 0.11 |
| <i>BAAQMD Thresholds (pounds per day)</i> | <i>54</i> | <i>54</i> | <i>82</i> | <i>54</i> |
| Threshold Exceeded? | No | No | No | No |

As shown in the table above, project construction period emissions would not exceed the BAAQMD significance thresholds.

Operational Criteria Pollutant Emissions

Operational emissions associated with the project would be generated from automobiles driven by future employees and residents. Project operational emissions were estimated using CalEEMod. Vehicle trip generation rates, energy usage, and other default CalEEMod model assumptions for solid waste generation and water usage/wastewater disposal were input into CalEEMod to estimate the emissions from operation of the project (refer to Appendix A of this document).

A stand-by emergency diesel generator is proposed on the ground floor of the senior care component. Details about the generator were not identified at the time of the analysis was completed. Therefore, it was assumed that the generator would be 150-kilowatt (kW) powered by a 200 horsepower (HP) diesel engine. The generator would be test periodically and would provide power to the buildings in the event of a power failure. For the purposes of this analysis, it was assumed that the generator would be operated for testing and maintenance purposes only. Default model assumptions for emissions associated with solid waste generation and water/wastewater use were used. Table 3.3-5 below shows an estimate of emissions from operation of the proposed project using CalEEMod. Based on the construction schedule, the proposed project would be operational in 2025.

| Table 3.3-5: Operational Emissions for the Project | | | | |
|---|------------|-----------------------|------------------------|-------------------------|
| Description | ROG | NO_x | PM₁₀ | PM_{2.5} |
| 2025 Project Operational Emissions (tons/year) | 2.04 | 0.62 | 0.73 | 0.21 |
| <i>BAAQMD Thresholds (tons/year)</i> | 10 | 10 | 15 | 10 |
| <i>Threshold Exceeded?</i> | No | No | No | No |
| 2025 Project Operational Emissions (pounds/day) | 11.17 | 3.40 | 4.01 | 1.13 |
| <i>BAAQMD Thresholds (pounds/day)</i> | 54 | 54 | 82 | 54 |
| <i>Threshold Exceeded?</i> | No | No | No | No |
| Note: Assumes 365-day operation. | | | | |

As shown in the table above, the project's operational criteria pollutant emissions would not exceed BAAQMD significance thresholds for ROG, NO_x, PM₁₀, and PM_{2.5}. Therefore, implementation of the project would not conflict with or obstruct implementation of the 2017 CAP.

The proposed project would not exceed the BAAQMD significance threshold for construction and operational criteria emissions. Therefore, the proposed project would not conflict with or obstruct implementation of the 2017 CAP. **(Less Than Significant Impact)**

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

Construction and operational period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds (refer to the previous discussion). Since the project would have a less than significant criteria pollutant impact, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in nonattainment. **(Less Than Significant Impact)**

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

Dust Generation

Construction activities on-site would temporarily generate dust and equipment exhaust that would affect nearby sensitive receptors. The project shall implement the following Standard Permit Conditions during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions:

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

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

With implementation of the Standard Permit Conditions, fugitive dust and other particulate matter during construction would have a less than significant air quality impact.

Project Construction – Community Risk Impacts

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC, would pose as a health risk to nearby sensitive receptors. A health risk assessment was prepared to evaluate potential health effects to nearby sensitive receptors (within 1,000 feet of the project site) from construction emissions of DPM and PM_{2.5}.¹⁷ The CalEEMod model was used which provides total annual PM₁₀ exhaust emissions (DPM) for the off-road construction equipment and on-road vehicles. The U.S. EPA AERMOD dispersion model was used to predict construction-related DPM and PM_{2.5} concentrations at existing sensitive receptors (e.g., residences and students) in the vicinity of the project construction area (refer to Appendix A of this document for more information).

¹⁷ DPM is identified by California as a TAC due to the potential to cause cancer.

The cancer risk and PM_{2.5} maximum exposed individuals (MEIs) were identified at the residence located five feet above ground at a distance of approximately 150 feet south of the project site (refer to Figure 3.3-1). Sensitive receptors are designated in green and the MEI from construction is designated in red. The MEI would have a cancer risk of 18.87 cases per one million (for infants) without mitigation which exceeds the BAAQMD threshold of 10 cases per one million. The adult cancer risk at the location of the MEI would be 0.35 cases per one million. The maximum-annual PM_{2.5} concentration would be 0.09 µg/m³ and the maximum hazard index (HI) concentration would be 0.02, which is below the 0.3 µg/m³ threshold for annual PM_{2.5} and HI of greater than 1.0, respectively.

As mentioned previously, the project site is located approximately 350 west of Luther Burbank School (refer to Figure 3.3-1 for the location of the school receptor). The students attending the school would be exposed to a cancer risk of 5.14 cases per one million, an annual PM_{2.5} of 0.06 µg/m³, and a HI of 0.01. The BAAQMD significance thresholds for cancer risk, annual PM_{2.5}, and HI would not be exceeded for the nearby school receptors.

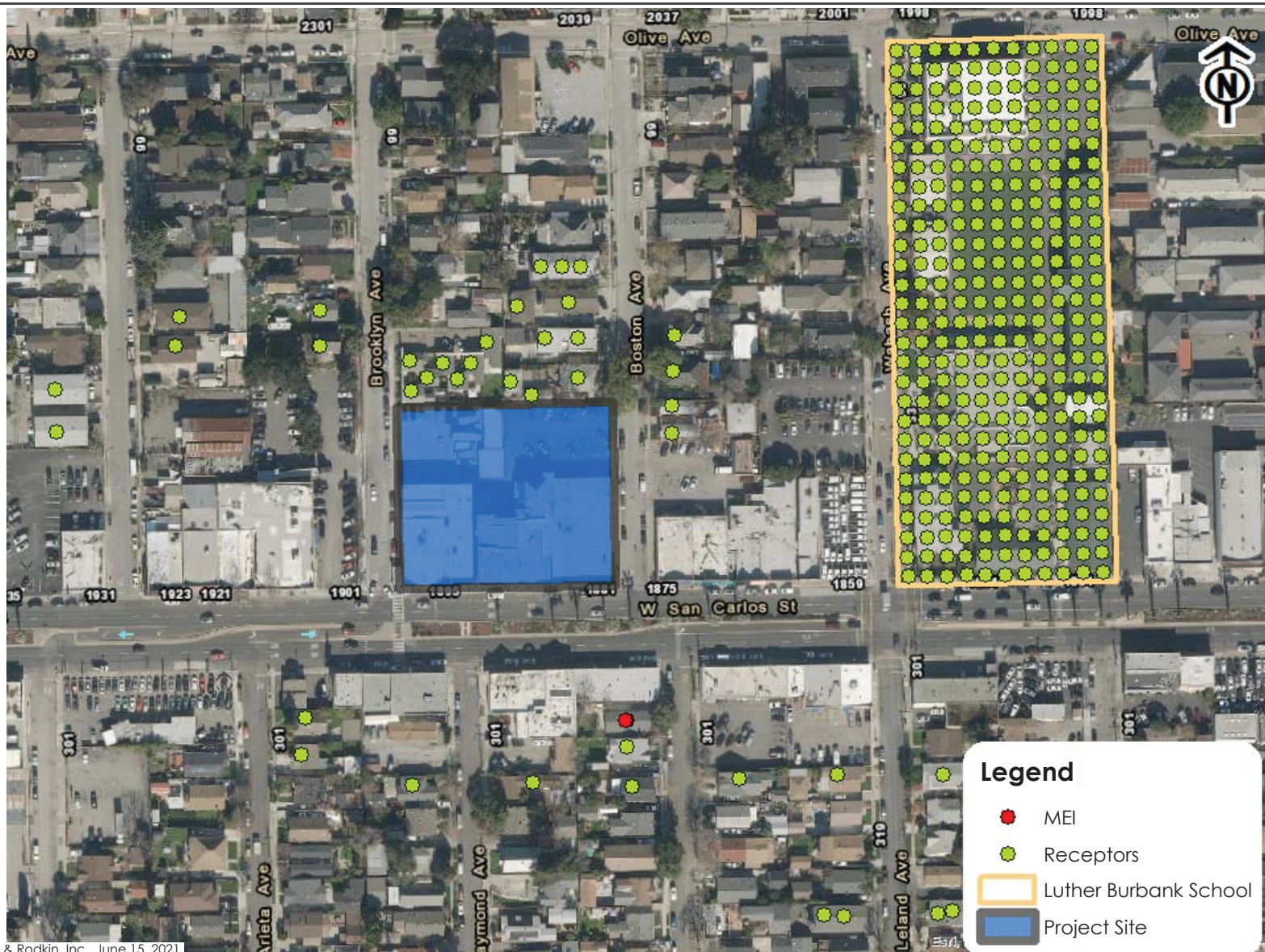
Impact AIR-1: Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess of the BAAQMD threshold of 10 cases per one million for infants.

Mitigation Measure

In addition to the Standard Permit Conditions listed above and in conformance with General Plan Policies MS-10.1 and MS-13.1, the following mitigation measure would be implemented during all demolition and construction activities to reduce toxic air contaminant (TAC) emissions impacts to the MEI.

MM AIR-1.1: Prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest), the project applicant shall implement the following control measures to reduce toxic air contaminant (TAC) emissions.

- For all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total, use equipment that meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter (PM₁₀ and PM_{2.5}).
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall use equipment that meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 50 percent reduction in diesel particulate matter emissions.
- Use alternatively fueled or electric equipment wherever possible.



LOCATIONS OF OFF-SITE RECEPTORS AND CONSTRUCTION MEI

FIGURE 3.3-1

The project applicant shall submit a construction operations plan prepared by an air quality professional that outlines how the construction contractor will achieve the measures outlined above. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

With implementation of the Standard Permit Conditions and Mitigation Measure AIR-1.1, the MEI infant residential cancer risk would be reduced to 4.05 per one million cases. Therefore, the proposed project would result in a less than significant TAC impact to nearby sensitive receptors.

Project Operation - Community Risk Impacts (Traffic and Generator)

Project Traffic

Project traffic and generators could result in community risk impacts. Per BAAQMD, roadways with less than 10,000 total vehicles per day would have a less than significant TAC impact. The project's trip generation was estimated from the traffic analysis and CalEEMod. The proposed project was estimated to generate up to 918 daily trips¹⁸ from light-duty gasoline-powered vehicles. The project would not generate large amounts of diesel truck trips; therefore, emissions from project traffic was not included in the analysis.

Generator

The project would include a 150-kW generator powered by a 200-HP diesel engine on the northern side of the senior care component. The generator would be operated for a total of 50 hours per year for testing and maintenance purposes. During testing periods, the engine would run for less than one hour under light engine loads.

The U.S. EPA AERMOD dispersion model was used to estimate the potential cancer risk and PM_{2.5} concentration at off-site sensitive receptor locations (e.g., residences and students) from operation of the proposed generator. To estimate the increased cancer risk from the generator at the MEIs, the cancer risk exposure duration was adjusted to account for the MEIs being exposed to construction for the first three years of the 30-year period.¹⁹ Refer to Appendix A of this document for more information and Figure 3.3-1 above for the location of off-site receptors. Table 3.3-6 provides a summary of the construction and operation risk impacts at the off-site MEIs.

¹⁸ Since the Air Quality Assessment was completed, the total net new daily trips have increased by 30 project trips. The increase in new daily trips would not result change the conclusions of the analysis.

¹⁹ Construction cancer risks would occur during the first three years and 27 years of operational cancer risks.

| Table 3.3-6: Construction and Operation Risk Impacts at Off-Site MEI | | | |
|---|--------------------------------------|---|-------------------------|
| Source | Cancer Risk (per million) | Annual PM_{2.5} (µg/m³) | Hazard Index |
| Project Construction (Years 0-3) Unmitigated | 18.87 (infant) | 0.09 | 0.02 |
| Project Generator (Year 3-30) | 0.05 | <0.01 | <0.01 |
| Total/Maximum Project Impact (Years 0-30) Unmitigated | 18.92 (infant) | 0.09 | 0.02 |
| <i>BAAQMD Single-Source threshold</i> | >10.0 | >0.3 | >1.0 |
| <i>Exceed Threshold?</i> Unmitigated | Yes | No | No |
| Luther Burbank School Student Receptor¹ | | | |
| Project Construction (Years 0-3) Unmitigated | 5.14 (child) | 0.06 | 0.01 |
| Project Generator (Year 3-9) | 0.21 (child) | <0.01 | <0.01 |
| Total/Maximum Project Impact (Years 0-9) Unmitigated | 5.35 (infant) | 0.06 | 0.01 |
| <i>BAAQMD Single-Source threshold</i> | >10.0 | >0.3 | >1.0 |
| <i>Exceed Threshold?</i> Unmitigated | No | No | No |
| Note: ¹ For informational purposes. | | | |

As shown in the table above, the maximum cancer risk for infants from construction and operation of the project (without mitigation) would exceed BAAQMD's significance thresholds of 10 cases per one million. The annual PM_{2.5} and HI from construction and operation of the project would not exceed BAAQMD's significance threshold. With implementation of the identified Standard Permit Conditions and Mitigation Measure AIR-1.1, the total maximum cancer risk from construction and operation of the project would be reduced to 4.10 cases per one million (for infants). project would result in a less than significant operational TAC impact to adjacent sensitive receptors.

Criteria Pollutant Emissions

In a 2018 decision (*Sierra Club v. County of Fresno*), the State Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effect.

The proposed project would result in a less than significant project-level operational and construction criteria pollutant impact. Therefore, the project would result in a less than significant health impact to sensitive receptors.

The proposed project would implement the identified Standard Permit Conditions and Mitigation Measure AIR-1.1 to reduce construction dust and other particulate matter emissions and TAC emissions. The project would also have a less than significant criteria pollutants impact and would not expose sensitive receptors to substantial pollutant concentrations. **(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 project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and would not affect people off-site.

In addition, operation of the proposed project would result in the use of cleaning supplies and maintenance chemicals which would generate temporary odors in the areas of use. The proposed residential and senior care land uses would not generate objectionable odors that would affect a substantial number of people off-site. Therefore, implementation of the proposed project would not result in long-term or short-term odor impacts. **(Less than Significant Impact)**

3.3.2.3 Cumulative Impacts

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

The geographic area for cumulative air quality impacts is the San Francisco Bay Area Air Basin. Past, present, and future development projects contribute to the region's adverse air quality impacts. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts.

The BAAQMD *CEQA Air Quality Guidelines* (2017) recommend that projects be evaluated for community risk when they are located within 1,000 feet of freeways, high traffic volume roadways (10,000 average annual daily trips or more), and/or stationary permitted sources of TACs.

Cumulative TAC Sources in the Project Area

Mobile Sources

The only substantial sources of mobile TAC emissions within 1,000 feet of the project site are West San Carlos Street and Bascom Avenue. The average daily trips (ADT) on West San Carlos Street and Bascom Avenue were estimated using the AM and PM peak-hour background traffic volumes for

nearby roadways provided by Hexagon Transportation Consultants, Inc. It is estimated that the ADTs on West San Carlos Street and Bascom Avenue are 20,745 and 22,335 vehicles, respectively.

Stationary Sources

Stationary sources are facilities that contain sources of TACs (e.g., a generator or gas station). Nearby stationary sources were identified using BAAQMD's *Permitted Stationary Sources 2018* geographic information system map website which identifies the location of stationary sources and their estimated risk and hazard impacts. Two stationary sources were identified; one is a diesel generator (Facility ID #19793) and one is a gas station (Facility ID #110390).

Table 3.3-7 below summarizes nearby mobile and stationary sources of TACs at the project MEI. Figure 3.3-2 shows the project site and the nearby TAC and PM_{2.5} sources.

| Table 3.3-7: Combined Sources at the Project MEI | | | |
|---|--|---|-----------------------------|
| Source | Maximum Cancer Risk (per million) | Maximum Annual PM_{2.5} Concentration (µg/m³) | Maximum Hazard Index |
| Total/Maximum Project Impact Unmitigated | 18.92 (infant) | 0.09 | 0.02 |
| West San Carlos Street | 4.40 | 0.29 | <0.01 |
| Bascom Avenue | 0.66 | 0.04 | <0.01 |
| Plant #19793 (Generator) | 1.2 | <0.01 | <0.01 |
| Plant #110390 (Generator) | 0.2 | -- | <0.01 |
| Combined Sources Unmitigated | 25.38 | <0.43 | <0.06 |
| <i>BAAQMD Combined Source Threshold</i> | <i>>100</i> | <i>>0.8</i> | <i>>10.0</i> |
| <i>Significant?</i> | <i>No</i> | <i>No</i> | <i>No</i> |

As shown above, the combined sources of TACs would be below the BAAQMD thresholds of significance. Therefore, the project would not have a cumulatively considerable contribution to air quality impacts. **(Less than Significant Cumulative Impact)**

3.3.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*BIA v. BAAQMD*), effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing air quality conditions affecting a proposed project.

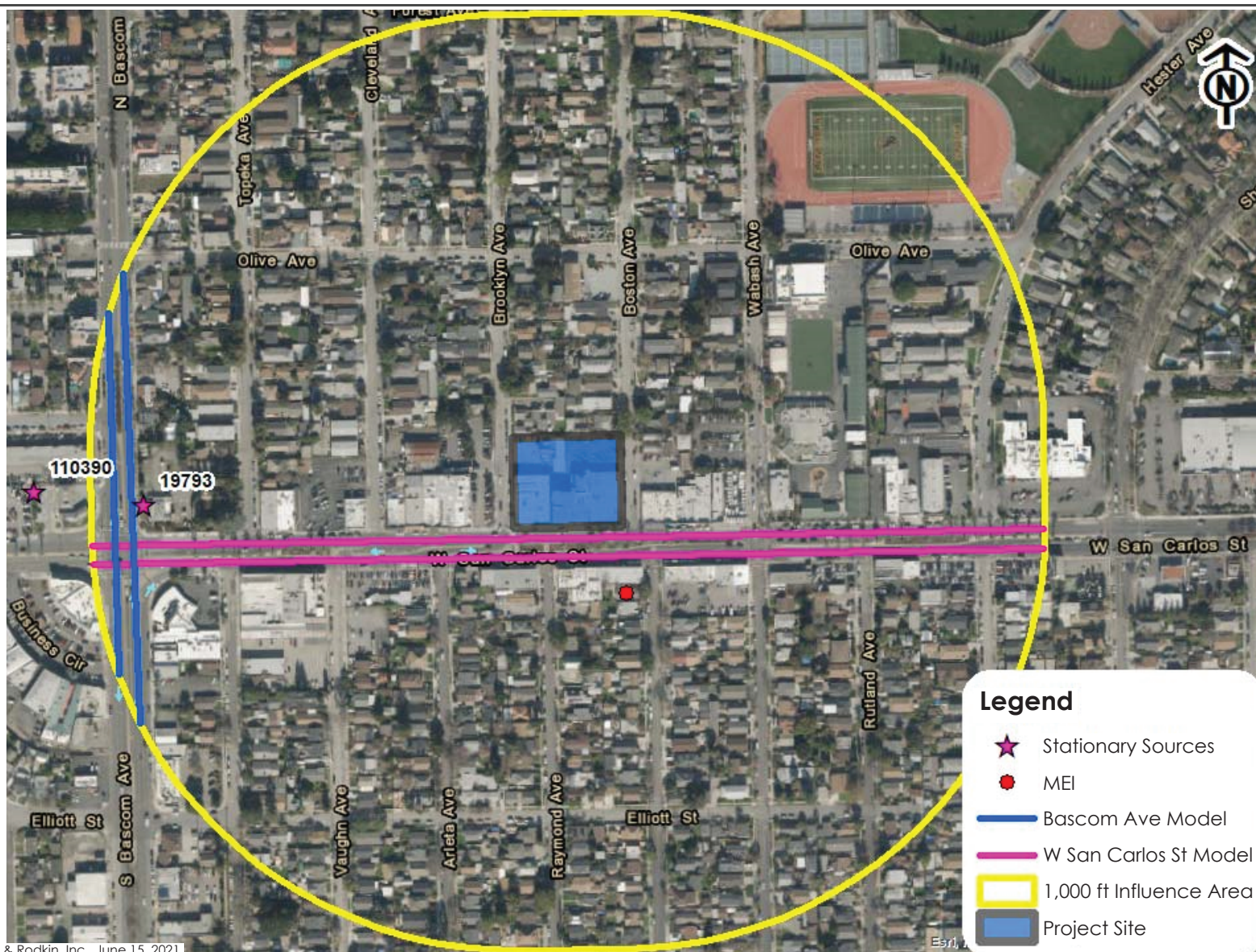
Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure that future sensitive receptors on-site are not exposed to substantial TAC emissions. The same TAC sources identified previously were used in this health risk assessment.

Operational Community Risk Impacts – New Residences

A health risk assessment was prepared to analyze the existing mobile and stationary sources of TACs on new sensitive receptors on-site. Table 3.3-8 summarizes nearby TAC and PM_{2.5} sources of air pollution near the project site. Figure 3.3-3 shows the project site and the nearby TAC and PM_{2.5} sources.

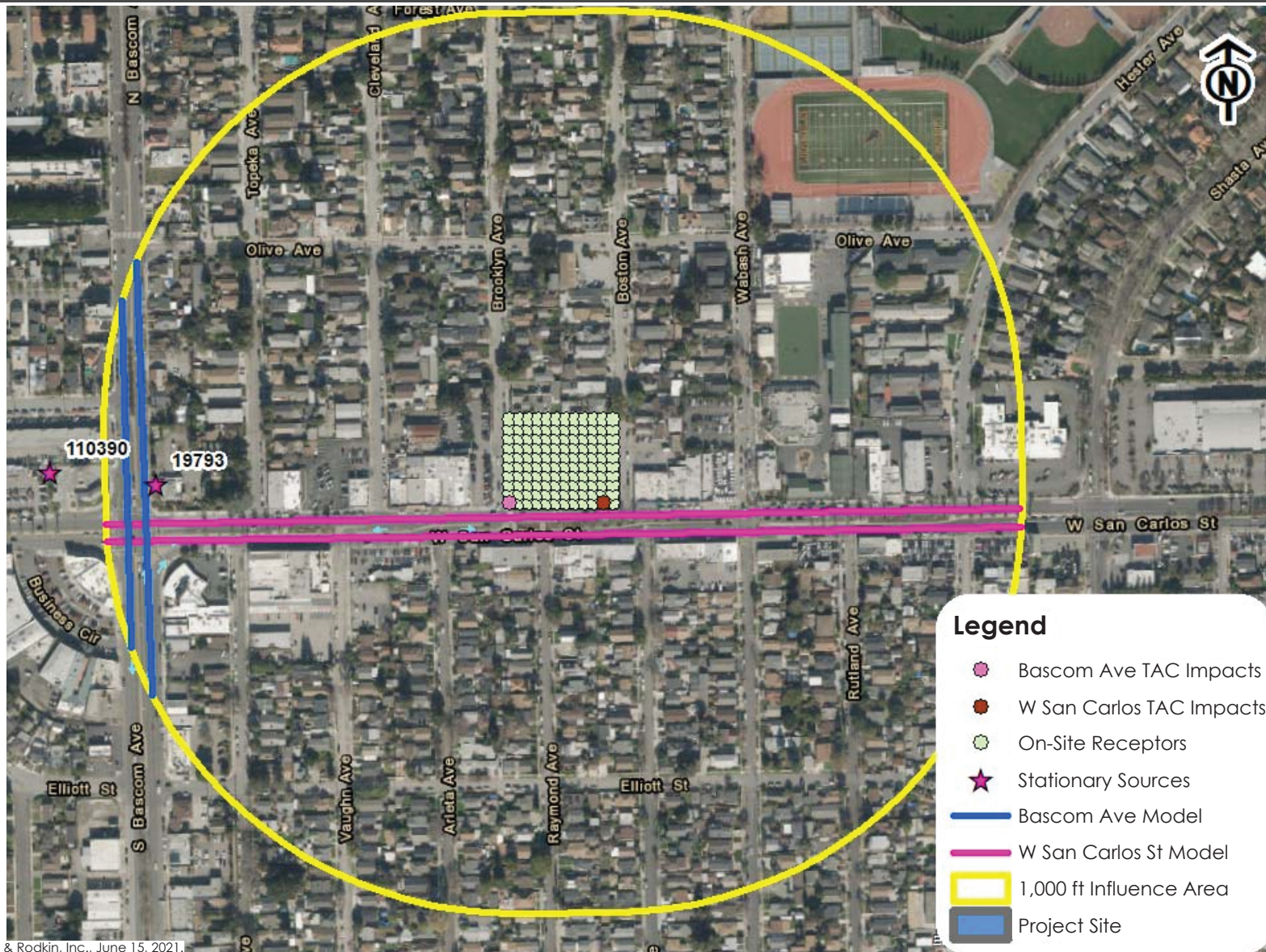
| Table 3.3-8: Community Risk Levels to Future Project Residences | | | |
|--|--|---|-----------------------------|
| Source | Maximum Cancer Risk (per million) | Maximum Annual PM_{2.5} Concentration (µg/m³) | Maximum Hazard Index |
| West San Carlos Street | 3.66 | 0.17 | <0.01 |
| Bascom Avenue | 0.85 | 0.05 | <0.01 |
| Plant #19793 (Generator) | 1.73 | <0.01 | <0.01 |
| Plant #110390 (Generator) | 0.17 | -- | <0.01 |
| <i>BAAQMD Single-Source Threshold</i> | <i>>10.0</i> | <i>>0.3</i> | <i>>1.0</i> |
| <i>Significant?</i> | <i>No</i> | <i>No</i> | <i>No</i> |
| Combined Total | 6.41 | <0.23 | <0.04 |
| <i>BAAQMD Cumulative Source Threshold</i> | <i>>100</i> | <i>>0.8</i> | <i>>10.0</i> |
| <i>Significant?</i> | <i>No</i> | <i>No</i> | <i>No</i> |

As shown in the table above, the estimated cancer risk, PM_{2.5} concentration, and HI would not exceed the single-source or cumulative-source thresholds. As a result, new sensitive receptors generated by the project would not be exposed to significant levels of air pollutants or TACs and the proposed project the project would be consistent with General Plan Policy MS-11.1.



PROJECT SITE AND NEARBY TAC AND $PM_{2.5}$ SOURCES

FIGURE 3.3-2



PROJECT SITE, ON-SITE RECEPTORS, AND LOCATIONS OF MAXIMUM ROADWAY TAC IMPACT

FIGURE 3.3-3

3.4 BIOLOGICAL RESOURCES

The following discussion is based upon an Arborist Report by Kurt Fouts in November 2020. This report is attached as Appendix B to this document.

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal and State

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under State and federal Endangered Species Acts are considered special-status species. Federal and State endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To “take” a listed species, as defined by the State of California, is “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” these 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, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.²⁰ Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, State, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control

²⁰ United States Department of the Interior. “Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take.” Accessed August 24, 2021. <https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf>.

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.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Regional

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

City of San José

Tree Removal Ordinance

The City of San José Tree Removal Controls (San José Municipal Code, Sections 13.31.010 to 13.32.100) serve to protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches (4.5 feet) above the natural grade of slope. The ordinance protects both native and non-native tree species. A tree removal permit is required from the City of San José for the removal of ordinance-sized trees. On private property, tree removal permits are issued by the Department of Planning, Building and Code Enforcement. Removal of or modifications to all trees on public property (e.g., street trees within a parking strip or the area between the curb and sidewalk) are handled by the City Arborist.

In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such Heritage Trees. Under the City's Tree Removal Ordinance, specific criteria or findings must be made before a permit for removal of a live or dead Heritage Tree would be granted.

Riparian Corridor and Bird-Safe Building Policy 6-34

The City of San José's Riparian Corridor and Bird Safe Building Policy, adopted in September 2016, provides guidance consistent with the goals, policies, and actions of the 2040 General Plan for: 1) protecting, preserving, or restoring riparian habitat; 2) limiting the creation of new impervious surface within Riparian Corridor setbacks to minimize flooding from urban runoff and control erosion; and 3) encouraging bird-safe design in baylands and riparian habitats of lower Coyote

Creek, north of State Route 237. It supplements the regulations for riparian corridor protection in the Council-adopted Santa Clara Valley Habitat Plan, the Zoning Code (Title 20 of the San José Municipal Code), and other existing City policies that may provide for riparian protection and bird-safe design. The general guidelines for setbacks and lighting apply to development projects within 300 feet of riparian corridors. Bird-safe design guidance for buildings and structures includes avoidance of large areas of reflective glass, transparent building corners, up-lighting, and spotlights.

Envision San José 2040 General Plan

The following policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources and are applicable to the project.

| General Plan Policies – Biological Resources | |
|---|--|
| 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 activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts. |
| ER-5.2 | Require that development projects incorporate measures to avoid impacts to nesting migratory birds. |
| 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. |
| 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. |
| 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. |
| MS-21.7 | Manage infrastructure to ensure that the placement and maintenance of street trees, streetlights, signs and other infrastructure assets are integrated. Give priority to tree placement in designing or modifying streets. |
| 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: <ol style="list-style-type: none"> 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. |

| General Plan Policies – Biological Resources | |
|---|---|
| | Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species. |
| 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. |

3.4.1.2 *Existing Conditions*

The project site is located in a fully urbanized area which is primarily impervious ground cover with very little vegetation. Based on the tree survey prepared by Kurt Fouts in November 2020, a total of six trees were surveyed that are located within or near the project parcels. Of the six trees; there are four Tree-of-heaven trees on-site and two camphor trees that are located off-site. None of the trees are proposed for removal. Species expected to be seen at the project site would include urban animals accustomed to urbanized environments.

3.4.2 Impact Discussion

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

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

3.4.2.1 *Project Impacts*

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

The project site is located within an urbanized area of the City with no natural sensitive habitats on-site. As mentioned previously, the four on-site trees and two off-site trees would be retained. Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and CDFW Code Sections 3503, 3503.5, and 3800. The CDFW defines “taking” as causing abandonment and/or loss of reproductive efforts through disturbance. Construction activities on the project site could result in the loss of eggs or nests to surrounding trees. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would constitute a significant impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800.

Mitigation Measure

In accordance with the MBTA, CDFW, and General Plan Policies ER-5.1 and ER-5.2 and consistent with the Downtown Strategy 2040 FEIR, the following mitigation measure is included to reduce impacts to raptors and migratory birds during construction.

MM BIO-1.1: Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers. During this survey, the qualified ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist will designate a construction-free buffer zone (typically 250 feet) to be established around the nest. The buffer would ensure

that raptor or migratory bird nests will not be disturbed during project construction.

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

With implementation of Mitigation Measure BIO-1.1, the project would not result in an adverse effect on any species identified as a candidate, sensitive, or special-status species including nesting birds and raptors. **(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 CDFW or USFWS?

There are no riparian habitats or other sensitive natural communities located on or adjacent to the site. The nearest creek to the site is Los Gatos Creek, which is located approximately 1.4 miles east of the project site. Implementation of the proposed project would have a less than significant impact on riparian habitats or other sensitive natural communities. **(Less than Significant Impact)**

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

The project site is fully impervious and does not contain State or federally protected wetland areas. The project would not impact areas outside of the immediate project site. Therefore, the project would not impact State or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(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 proposed project would not impact wildlife movement corridors or wildlife nursery sites. Additionally, the project is not located near a stream or river serving as a migratory corridor for fish. 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?

A total of six trees were surveyed; none of which would be removed as part of the project. Therefore, the project would not conflict with the City's tree preservation policy and ordinance. (**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 site is located within the SCVHP and is designated as "Urban-Suburban" land.²¹ Private development in the plan area is subject to the SCVHP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in *Section 2.3.2 Urban Development* or in *Section 2.3.7 Rural Development*;²²
- In Figure 2-5 of the SCVHP, the activity is located in an area identified as "Private Development is Covered," or the activity is equal to or greater than two acres and;
 - The project is located in an area identified as "Rural Development Equal to or Greater than Two Acres is Covered," or "Urban Development Equal to or Greater than Two Acres is Covered" or,
 - The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The proposed project would require discretionary approval by the City and is consistent with the activity described in *Section 2.3.2* of the SCVHP. Consistent with the SCVHP, the project applicant shall implement the following Standard Permit Condition.

Standard Permit Condition:

- **Santa Clara Valley Habitat Plan.** The project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the

²¹ Santa Clara Valley Habitat Agency. "Habitat Geobrowser." Accessed September 1, 2021. www.hcpmaps.com/habitat/.

²² Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

With implementation of the identified Standard Permit Condition, the project would not conflict with the provisions of the SCVHP. **(Less than Significant Impact)**

3.4.2.2 *Cumulative Impacts*

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

The geographic area for cumulative biological resources impacts include the project site. The project site does not contain sensitive, wetland, or riparian habitat. Therefore, the project's impact to biological resources would not be cumulatively considerable. **(Less Than Significant Cumulative Impact)**

3.5 CULTURAL RESOURCES

The following discussion is based upon a Literature Search prepared by Holman & Associates in November 2020, a Historic Resource Evaluation prepared by Archaeological Resource Management in September 2021 and City staff analysis. A copy of the Literature Search is on file at the City of San José Department of Planning, Building and Code Enforcement. A copy of the Historic Resource Evaluation is attached in Appendix C.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

The National Register of Historic Places (NRHP) is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the national, State, or local level. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the California Register of Historical Resources (CRHR).²³

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.” The NRHP identifies four possible context types, of which at least one must be applicable at the national, State, or local level. As listed under Section 8, “Statement of Significance,” of the NRHP Registration Form, these are:

- A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
- B. Property is associated with the lives of persons significant in our past.
- C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D. Property has yielded, or is likely to yield, information important to prehistory or history.

Second, for a property to qualify under the NRHP’s Criteria for Evaluation, it must also retain “historic integrity of those features necessary to convey its significance.” While a property’s significance relates to its role within a specific historic context, its integrity refers to “a property’s physical features and how they relate to its significance.” To determine if a property retains the physical characteristics corresponding to its historic context, the NRHP has identified seven aspects of integrity: 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

²³ Refer to Public Resources Code Section 5024.1(d)(1).

California Register of Historical Resources

The guidelines for identifying historic resources during the project review process under CEQA are set forth in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5(a). These provisions of CEQA create three categories of historical resources: mandatory historical resources; presumptive historical resources; and resources that may be found historical at the discretion of the lead agency. These categories are described below.

- **Mandatory Historical Resources.** A resource the State Historical Resources Commission lists on the CRHR, or the State Historical Resources Commission determines to be eligible for listing in the CRHR, is defined by CEQA to be a historical resource. Resources are formally listed or determined eligible for listing by the State Historical Resources Commission in accordance with the procedures set forth in the provisions of state law relating to listing of historical resources.²⁴ If a resource has been listed in the CRHR, or formally determined to be eligible for listing by the State Historical Resources Commission under these procedures, it is conclusively presumed to be a historical resource under CEQA.
- **Presumptive Historical Resources.** A resource included in a local register of historic resources as defined by State law²⁵ or identified as significant in a historical resource survey meeting the requirements of State law,²⁶ shall be presumed to be historically or culturally significant. The lead agency must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- **Discretionary Historical Resources.** A resource that is not determined to be a significant historical resource under the criteria described above, may, in the discretion of the lead agency, be found to be a significant historical resource for purposes of CEQA, provided its determination is supported by substantial evidence in light of the whole record. The CEQA Guidelines further provide that generally, a lead agency should consider a resource historically significant if the resource is found to meet the criteria for listing on the CRHR, including the following:
 - Criterion 1 (Events): The resource is associated with events or patterns of events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States; or
 - Criterion 2 (Persons): The resource is associated with the lives of persons important to local, California, or national history; or

²⁴ Set forth in Public Resources Code Section 5024.1 and 14 California Code of Regulations (CCR) Section 4850, et. seq.

²⁵ Set forth in Public Resources Code Section 5020.1(k), a local register of historical resources is a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.

²⁶ Under Public Resources Code Section 5024.1(g), a resource can be identified as significant in a historical resources survey and found to be significant by the State Office of Historic Preservation (i.e., listed in the CRHR) if three criteria are met: (1) the survey has or will be included in the State Historic Resources Inventory; (2) the survey and documentation were prepared in accordance with State Office of Historic Preservation procedures and requirements; and (3) the State Office of Historic Preservation has determined the resource has a significance rating of Category 1 to 5 on Form 523.

- Criterion 3 (Architecture): The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values, or
- Criterion 4 (Information Potential): The resource has the potential to yield information important to the prehistory or history of the local area, California, or the nation.²⁷

Historical resources eligible for listing in the CRHR must meet one of the criteria of significance described above *and* retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and in evaluating adverse changes to them. Integrity is defined as “the authenticity of a historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance.” The process of determining integrity is similar for both the California and National Registers, and the same seven variables or aspects to define integrity are used to evaluate a resource’s eligibility for listing. These seven characteristics include: 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

Senate Bill 18

The intent of SB 18 is to aid in the protection of traditional tribal cultural places through local land use planning by requiring city governments to consult with California Native American tribes on projects which include adoption or amendment of general plans (defined in Government Code Section 65300 et seq.) and specific plans (defined in Government Code Section 65450 et seq.). SB 18 requires local governments to consult with tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process.

California Native American Historical, Cultural, and Sacred Sites Act

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

Public Resources Code Sections 5097 and 5097.98

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

²⁷ CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6. Accessed September 14, 2020.
<https://ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf>.

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

City of San José

Historic Preservation Ordinance

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

City Council's Development Policy on the Preservation of Historic Landmarks

The City Council's Development Policy on the Preservation of Historic Landmarks (as amended May 23, 2006) calls for preservation of candidate or designated landmark structures, sites, or districts wherever possible. The City also has various historic design guidelines that suggest various methods for the restoration or rehabilitation of older/historic structures and establish a general framework for the evaluation of applications involving historic preservation issues. The City offers a number of historic preservation incentives, including use of the State Historic Building Code, Mills Act/Historical Property Contracts, and various land use and zoning incentives.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources and are applicable to the project.

| General Plan Policies - Cultural Resource | |
|--|--|
| ER-9.2 | Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced. |
| ER-10.1 | For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. |

| General Plan Policies - Cultural Resource | |
|--|---|
| 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. |
| ER-9.2 | Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced. |
| ER-10.1 | For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design. |
| ER-10.3 | Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources. |
| LU-13.2 | Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting. |
| LU-13.3 | For landmark structures located within new development areas, incorporate the landmark structures within the new development as a means to create a sense of place, contribute to a vibrant economy, provide a connection to the past, and make more attractive employment, shopping, and residential areas. |
| LU-13.4 | Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks. |
| LU-13.6 | Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code. |
| LU-13.8 | Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character. |
| LU-13.15 | Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources. |

3.5.1.2 *Existing Conditions*

Site History

Prehistoric

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is not in proximity to any local waterways. The project site is located 1.4 miles west of Los Gatos Creek and 1.5 miles west of Guadalupe River.

Historic – Mission period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California led to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally near the old San José City Hall. Because the location was prone to flooding, the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo is located approximately 2.1 miles northeast of the project site.

Historic – Post-Mission period to Early 20th Century

The site is located within the 2,219-acre Rancho de Los Coches which was given to Roberto Antonio Balermينو by Governor Manuel Micheltorena in 1842. The rancho was acquired by Antonio Suñol de Sainservain and divided into three parts.

The project area is located within the historically recognized area of the community of Burbank, a Census Designated Place in the County. The origins of Burbank lie within an approximately 220-acre property purchase by Elisha Lafayette Bradley from Henry Morris Naglee in 1872 which was planted

with orchards. After the construction of the San José-Los Gatos Interurban Railroad was completed, housing was constructed on the property in 1904. Per the Historic Resource Evaluation, residential development continued to be constructed for the first few decades of the century, including the project area along West San Carlos Street. Burbank remained as a semi-rural neighborhood up until the 1940's.

Expansion of the retail district along West San Carlos Street occurred after World War I. The Burbank community continued to expand in the late 1920s. The post-WWII era began a period of rapid industrialization in San José. During this period, commercial development continued in Burbank, with many small businesses catering to the working families in the neighborhood, particularly along West San Carlos Street.

Literature Search

In November 2020, Holman & Associates completed a literature review to identify potential archaeological deposits below the ground surface on-site and in the immediate project vicinity. No recorded prehistoric archaeological sites were identified on or within 0.5 miles of the project site. Based on the literature search, the project site has low potential for Native American resources and historic-era archaeological resources.

3.5.1.3 *Buildings On Site*

Based on a review of Sanborn Fire Insurance Maps, a single-family residence was located at 1881 West San Carlos Street in 1915. By 1932, a commercial building, similar to the footprint of the existing building, was constructed. By 1950, a laundromat and retail stores were present at the rear of the 1881 West San Carlos Street building. By 1955, the existing building on-site was constructed and occupied by multiple businesses up until today. At the time of its construction, the structure was owned by Charles Thomas Gray Smith and Josephine Bristol Smith, founders of the Sunnyvale Credit Bureau.

The single-family residence on the 1883-1887 West San Carlos site was constructed circa 1908. By 1925, a commercial building was constructed on the property along the West San Carlos Street frontage in front of the 1908 single-family residence. The commercial building was occupied by various commercial businesses and was briefly vacant. Based on the Sanborn Fire Insurance Maps for 1915, the 1891-1895 West San Carlos Street site was vacant. The property was owned by several people and is currently listed under the ownership of Zurich Properties LP. Various businesses and short-term residential tenants occupied the site from 1934 to today. An additional permit was issued in 1950 for a commercial business which added the third store front to the structure.

A single-family residence occupied the 1899 West San Carlos Street site in 1915 through 1932. Similar to the other buildings on-site, various businesses occupied the site from 1897 to today.

Historic Resource Evaluations

None of the buildings on-site are currently listed in the HRI²⁸, CRHR, or the NRHP.

²⁸ City of San José. "Historic Resources Inventory." Accessed November 25, 2020. <https://www.sanjoseca.gov/home/showdocument?id=24021>.

1881 West San Carlos Street

The one-story reinforced concrete building at 1881 West San Carlos Street was constructed in 1955 and has been occupied by various commercial businesses from 1956 to the present. The structure is of Modern architecture with a rectangular form and a flat roof. The most notable feature is a large extending sign located at the corner of the eastern building façade which, based on archival photography, appears original to the building. The facades are unadorned, but there is a flat parapet that extends along the front façade which has multi-paned shop windows extending to the pavement, and an entry flanked by unadorned reinforced concrete pilasters. No major structural modifications have been made to the structure.

NRHP/CRHR Evaluation

The property at 1881 West San Carlos Street is not associated with any known significant historical events and is not eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. Although the property was originally constructed by C.T. G. and Josephine Bristol Smith (founders of Sunnyvale Credit Bureau), the Smiths owned many properties in the South Bay, and the subject property is not closely associated with them. Steve Dorsa owned the property from 1975 until his death in 1993. Although Steve Dorsa was a locally active businessman in Burbank and San José, he is not a person of local significance. Therefore, the property is not eligible under Criterion B of the NRHP or Criterion 2 of the CRHR. The building is not a significant example of Modern commercial architecture; therefore, the property is not eligible for the NRHP under Criterion C or Criterion 3 of the CRHR. The building does not have the potential to yield information important in prehistory or history; therefore, the building is not eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

City of San José City Landmark Evaluation

The following is an evaluation of the property at 1881 West San Carlos Street against the City of San José's Historic Landmark Designation Criteria, as outlined in the San José Municipal Code Section 13.48.100 H. The property does not meet any of the City Landmark designation criteria.

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

The building does not possess special character, interest, or value to the local, regional, State, or national history, trends in history, or cultural of the community and is not eligible under Criterion 1.

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

The building is not the site of a significant historic event and is not eligible under Criterion 2.

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

The building is not associated with any person(s) who significantly contributed to the local, regional, State, or national history and is not eligible under this criterion. Although the property was originally constructed by C.T. G. and Josephine Bristol Smith (founders of Sunnyvale Credit Bureau), the Smiths owned many properties in the South Bay, and the subject property is not closely associated with them. Steve Dorsa owned the property from 1975 until his death in 1993. Although Steve Dorsa was a locally active businessman in Burbank and San José, he did not “significantly contributed to the local, regional, state, or national culture or history”; thus, the building is not eligible under Criterion 3.

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

The building does not exemplify cultural, economic, social, or historic heritage of the City and is not eligible under Criterion 4.

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

The architectural design of the building does not portray a group of people in history and is not eligible under Criterion 5.

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

Although the building represents the Modern commercial architecture, it is not an unusual example of this style. While the structure includes a large sign, the sign does not incorporate neon or other decorative characteristics of the era it was constructed. For these reasons, the building is not eligible under Criterion 6.

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

The building was not built by a notable architect or master building and is not eligible under Criterion 7.

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

The building does not contain any unique or architectural innovations and is not eligible under Criterion 8.

In conclusion, the building is not eligible for listing in the NRHP or CRHR and is not eligible for listing in the City of San Jose’s HRI as a Candidate City Landmark.

1883-1887 West San Carlos Street

The commercial building at 1883-1887 West San Carlos Street was constructed circa 1925 and is characterized by Art-Deco architectural features. The building has a flat roof with a parapeted front façade. Two recessed entries are present on the southern building façade. Decorative beveled ended pilasters are placed at both sides of the facade, with a shortened, decorative pilaster segment beveled at the top and the bottom centrally placed on the façade. The upper portion of the facade features broad flat areas for signage, and a series of slightly recessed wooden panels between decorative miniature pilasters below. The 1950 addition consists of the same decorative façade.

Located behind the commercial building fronting West San Carlos Street is a residence constructed circa 1908 with hipped roof, broad eaves with exposed rafters, and exterior narrow horizontal wood siding. Multiple additions appear have been made to the rear and side of this structure, diminishing its original character.

NRHP/CRHR Evaluation

The property at 1883-1887 West San Carlos Street is not associated with any known significant historical events and is not eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. The property is not associated with persons of local significance. Steve Dorsa owned the property along from 1985 until his death in 1993. As noted above, Steve Dorsa is not a person of local significance; therefore, the property is not eligible under Criterion B of the NRHP or Criterion 2 of the CRHR. The residence on-site was the first building to be developed on the lot circa 1908; however, the building no longer maintains historic integrity because the distinguishing features of the front façade have been lost and multiple additions have further diminished its original historic character. The commercial building is not a significant example of Art Deco style commercial architecture; therefore, it is not eligible under Criterion C of the NRHP or Criterion 3 of the CRHR. The property does not have the potential to yield any prehistory or history of the area; therefore, it is not eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

City of San José City Landmark Evaluation

Based on the analysis by Archaeological Resource Management, the property at 1883-1887 West San Carlos Street does not meet any of the City of San José's Historic Landmark Designation Criteria.

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

The property does not possess special character, interest, or value to the local, regional, State, or national history, trends in history, or cultural of the community and is not eligible under Criterion 1.

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

The property is not at the site of a significant historic event and is not eligible under Criterion 2.

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

While the building has minor association with a locally active businessperson (Steve Dorsa) in Burbank and San José, he did not significantly contribute to the local, regional, State, or national history. Therefore, the structures are not eligible under this criterion.

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

The property does not exemplify cultural, economic, social, or historic heritage of the City and is not eligible under Criterion 4.

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

The architectural design of the buildings does not portray a group of people in history and are not eligible under Criterion 5.

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

While the property contains an example of Art Deco style commercial architecture; it is not a particularly fine or unusual example of this style. Therefore, the property is not eligible under Criterion 6.

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

The buildings were not built by a notable architect or master building and are not eligible under Criterion 7.

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

The buildings do not contain any unique or architectural innovations and are not eligible under Criterion 8.

In conclusion, the property is not eligible for listing in the NRHP or CRHR and is not eligible for listing in the City of San José's HRI as a Candidate City Landmark.

Based on the City's review, the building at 1883-1887 West San Carlos represents the prosperous interwar period in Burbank, which was largely unincorporated Santa Clara County. West San Carlos Street was developed with housing at the turn of the 20th century following the completion of the San José-Los Gatos Interurban Railroad. The site is located in the Interurban Park Tract subdivided in 1904, which maintained a semi-rural character. The area was populated with inexpensive residences for people of moderate means. Many of the residents in the area worked in orchards or manufacturing

related to agriculture. The site first contained a residence, constructed in 1908, which illustrates the early residential development of the Interurban Park Tract. There was a notable expansion of the retail district along West San Carlos Street after World War I and the area continued to expand in the 1920s and 1930s.

The building is a remnant of the early retail district and was constructed circa 1925 by John and Cornelia Klitsch. The building at 1883-1887 West San Carlos Street is a modest example of the Art Deco style. The commercial building served the local neighborhood that surrounded the retail district.

The building is one of the few remaining commercial buildings on West San Carlos Street that represent the early 20th century development of Burbank, prior to the rapid industrialization of San José in the Post World-War II era. The building is not an example of "high-style" architecture, but the modest interpretation of the architectural styles popular at the time are representative of the era of history and the people that lived in the Burbank community in the early 20th century.

Therefore, the City has concluded that the building at 1883-1887 West San Carlos Street is eligible for listing in the HRI as a Candidate City Landmark.

1891-1895 West San Carlos Street

The two-story Neoclassical style stucco clad building at 1891-1895 West San Carlos Street was constructed circa 1925. The ground floor consists of retail space and the second floor and a portion of the ground floor (at the rear) contains residential units.

NRHP/CRHR Evaluation

The property at 1891-1895 West San Carlos Street is not associated with any known significant historical events and is not eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. The property is not associated with any persons of local significance; therefore, it is not eligible under Criterion B of the NRHP or Criterion 2 of the CRHR. The building is not a significant example of Neoclassical style commercial architecture; therefore, the property is not eligible under Criterion C of the NRHP or Criterion 3 of the CRHR. The property does not have the potential to yield any prehistory or history of the area; therefore, it is not eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

City of San José City Landmark Evaluation

Based on the analysis by Archaeological Resource Management, the property at 1891-1895 West San Carlos Street does not meet any of the City of San José's Historic Landmark Designation Criteria.

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

The property does not possess special character, interest, or value to the local, regional, State, or national history, trends in history, or cultural of the community and

is not eligible under Criterion 1.

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

The property is not the site of a significant historic event and is not eligible under Criterion 2.

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

The property is not associated with any person(s) who significantly contributed to the local, regional, State, or national history and is not eligible under Criterion 3.

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

The property does not exemplify cultural, economic, social, or historic heritage of the City and is not eligible under Criterion 4.

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

The architectural design of the commercial building does not portray a group of people in history and is not eligible under Criterion 5.

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

Although the building represents the Neoclassical commercial architecture, it is not an unusual example of this style. Therefore, the property is not eligible under Criterion 6.

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

The building was not built by a notable architect or master building and is not eligible under Criterion 7.

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

The building does not contain any unique or architectural innovations and is not eligible under Criterion 8.

In conclusion, the property is not eligible for listing in the NRHP or CRHR and is not eligible for listing in the City of San José's HRI as a Candidate City Landmark.

Based on the City's review, the building at 1891-1895 West San Carlos Street is eligible for listing in the HRI as a Candidate City Landmark as one of the few remaining commercial buildings on West San Carlos Street that represent the early 20th century development of Burbank, prior to the rapid industrialization of San José in the Post World-War II era. While the building is not an example of "high-style" architecture, the modest interpretations of the architectural styles popular at the time are representative of the era of history and the people that lived in the Burbank community in the early 20th century.

1897-1899 West San Carlos Street

The stucco clad commercial building at 1897-1899 West San Carlos Street was originally constructed in 1939 with a two-story rear addition added in 1948 and the building was remodeled in 1957. The commercial building is utilitarian in character.

NRHP/CRHR Evaluation

The property at 1897-1899 West San Carlos Street is not associated with any known significant historical events and is not eligible under Criterion A of the NRHP or Criterion 1 of the CRHR. One of the property owners at the time of construction was Clyde Fischer. Fischer was a prominent local businessman and mayor of San José at the time. Because he owned the property for less than a year (after construction), Fischer's association with the property is a very minor one. Therefore, the property is not eligible under Criterion B of the NRHP or Criterion 2 of the CRHR. The building is not a significant example of vernacular commercial architecture; therefore, the property is not eligible under Criterion C of the NRHP or Criterion 3 of the CRHR. The property does not have the potential to yield any prehistory or history of the area; therefore, it is not eligible under Criterion D of the NRHP or Criterion 4 of the CRHR.

City of San José City Landmark Evaluation

The property at 1897-1899 West San Carlos Street does not meet any of the City of San José's Historic Landmark Designation Criteria.

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

The property does not possess special character, interest, or value to the local, regional, State, or national history, trends in history, or cultural of the community and is not eligible under Criterion 1.

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

The property is not the site of a significant historic event and is not eligible under Criterion 2.

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

As mentioned previously, Fischer was a prominent local businessman and mayor of San José at the time. Because he owned the property for less than a year after construction, Fischer's association with the property is a very minor one. Therefore, the property is not eligible under Criterion 3.

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

The property does not exemplify cultural, economic, social, or historic heritage of the City and is not eligible under Criterion 4.

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

The architectural design of the building does not portray a group of people in history and is not eligible under Criterion 5.

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

Although the building represents the vernacular commercial architecture, it is not a significant or unusual example of this style. Therefore, the property is not eligible under Criterion 6.

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

The building was not built by a notable architect or master building and the property is not eligible under Criterion 7.

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

The building does not contain any unique or architectural innovations and the property is not eligible under Criterion 8.

In conclusion, the property is not eligible for listing in the NRHP or CRHR and is not eligible for listing in the City of San José's HRI as a Candidate City Landmark.

Eligibility of On-Site Structures as a Potential District

The buildings on-site share a common land use pattern as retail stores along West San Carlos Street. Three of the four buildings are physically connected with an alleyway separating the 1891-1895 and 1897-1899 West San Carlos Street buildings. The buildings on-site are representative of the Inter-War and early post-World War II development of the community of Burbank. Therefore, the structures were analyzed for eligibility for listing under the City's HRI as a group. To evaluate the buildings as a potential historic district, the properties were evaluated against the City of San José's

Historic Landmark District Designation Criteria outlined in Municipal Code Section 13.48.120(H) was used.

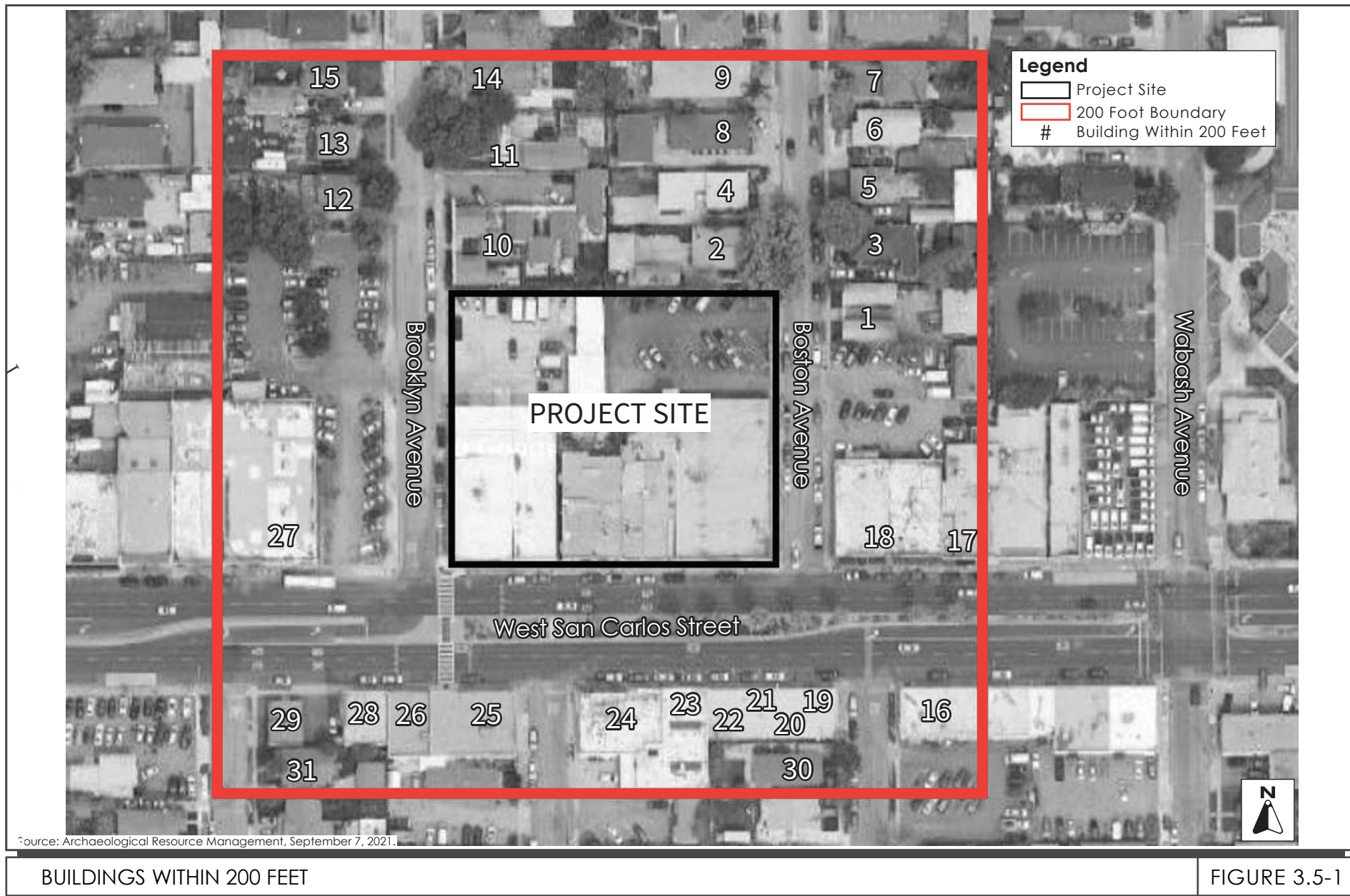
While the buildings are representative of the Inter-War and early post-World War II development of the community of Burbank, the buildings do not possess special character, interest, or value to the local, regional, State, or national history, trends in history, or cultural of the community. They are not at the site of a significant historic event. While persons of some local interest have been associated with the properties, these associations are very minor. The buildings are typical of mid-20th century development in suburban areas and represent a mix of Modernist, Art Deco, and vernacular commercial architecture and they are not significant or unusual examples of their respective styles nor were they built by a notable architect or master builder. The four properties lack a significant concentration or continuity of buildings unified by past events or aesthetically by plan or physical development. Therefore, the properties are not eligible for listing in the City of San José's HRI as a Candidate City Landmark District.

Off-Site Properties within 200 Feet of Project Site

There are 31 parcels within 200 feet of the project site that were analyzed for potential consideration as historic resources. These buildings are shown on Figure 3.5-1 with assigned numbers for reference. Of the 31 properties, seven are listed on the City's HRI. In addition, seven properties that are 50 years or older are potentially eligible for listing on the City's HRI based upon age and/or architectural characteristics. Of the 31 properties, 17 parcels contain buildings that are less than 50 years old and were not evaluated further based on age. Table 3.5-1 provides a summary of the status of buildings within 200 feet of the project site.

| Table 3.5-1: Buildings Within 200 Feet of the Site | | | | |
|---|--------------------------------|-----------------------|-------------------|--------------------------|
| Building No. | Building Name | Address | Year Built | Status |
| 1 | Bern's Court | 10-12 Boston Avenue | Circa 1932 | Listed on the City's HRI |
| 2 | Bern Residence | 19 Boston Avenue | 1927 | Listed on the City's HRI |
| 3 | -- | 24 Boston Avenue | 1904 | Likely Ineligible |
| 4 | -- | 25 Boston Avenue | 1922 | Potentially Eligible |
| 5 | -- | 26 Boston Avenue | 1910 | Likely Ineligible |
| 6 | Owen Residence | 30 Boston Avenue | 1917 | Listed on the City's HRI |
| 7 | -- | 44 Boston Avenue | 1982 | Likely Ineligible |
| 8 | -- | 47 Boston Avenue | 1948 | Likely Ineligible |
| 9 | -- | 55 Boston Avenue | 1953 | Likely Ineligible |
| 10 | Brooklyn Avenue Bungalow Court | 24-26 Brooklyn Avenue | 1927 | Listed on the City's HRI |

| Table 3.5-1: Buildings Within 200 Feet of the Site | | | | |
|---|----------------------|-----------------------------|-------------------|--------------------------|
| Building No. | Building Name | Address | Year Built | Status |
| 11 | Dorsa Residence | 34-36 Brooklyn Avenue | 1939 | Listed on the City's HRI |
| 12 | -- | 47 Brooklyn Avenue | 1900 | Potentially Eligible |
| 13 | -- | 53 Brooklyn Avenue | 1918 | Likely Ineligible |
| 14 | -- | 60 Brooklyn Avenue | 1910 | Potentially Eligible |
| 15 | -- | 65 Brooklyn Avenue | 1925 | Likely Ineligible |
| 16 | -- | 1872 West San Carlos Street | 1937 | Potentially Eligible |
| 17 | -- | 1873 West San Carlos Street | Circa 1940 | Likely Ineligible |
| 18 | -- | 1875 West San Carlos Street | Circa 1940 | Likely Ineligible |
| 19 | -- | 1876 West San Carlos Street | 1946 | Likely Ineligible |
| 20 | -- | 1878 West San Carlos Street | 1946 | Likely Ineligible |
| 21 | -- | 1880 West San Carlos Street | 1946 | Likely Ineligible |
| 22 | -- | 1884 West San Carlos Street | 1946 | Likely Ineligible |
| 23 | -- | 1886 West San Carlos Street | 1946 | Likely Ineligible |
| 24 | -- | 1890 West San Carlos Street | 1946 | Potentially Eligible |
| 25 | -- | 1908 West San Carlos Street | Circa 1940 | Likely Ineligible |
| 26 | -- | 1910 West San Carlos Street | Circa 1940 | Likely Ineligible |
| 27 | -- | 1915 West San Carlos Street | 1924 | Likely Ineligible |
| 28 | -- | 1916 West San Carlos Street | 1952 | Likely Ineligible |
| 29 | -- | 1924 West San Carlos Street | 1952 | Likely Ineligible |
| 30 | -- | 311 Irving Avenue | 1920 | Potentially Eligible |
| 31 | -- | 310 Arleta Avenue | 1925 | Potentially Eligible |
| Note: Historic Resources Inventory (HRI) | | | | |



3.5.1.4 *Impact Discussion*

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

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

3.5.1.5 *Project Impacts*

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

Based on the Historic Resource Evaluation prepared by Archaeological Resource Management, none of the buildings on-site are eligible for listing on the NRHP, CRHR, or in the San José HRI as a Candidate City Landmark.

There is, however, a difference of expert opinion on the eligibility of the properties located at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street. The historic consultant found the buildings to be ineligible as a local resource. The City of San José determined that the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José's HRI as Candidate City Landmarks under Criterion 1, 4, and 5 based on all available information on record.

Therefore, the demolition of the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street would result in a significant impact to historical resources under CEQA.

Impact CUL-1: The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José Historic Resources Inventory as Candidate City Landmarks. Demolition of these buildings would result in a significant unavoidable impact.

Mitigation Measures

The following mitigation is proposed to reduce the impact to the historical resources on the project site:

MM CUL-1.1: Documentation: The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street shall be documented in accordance with the guidelines established for the Historic American Building Survey (HABS) and shall consist of the following components:

1. Drawings – Prepare sketch floor plans.

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

An architectural historian meeting the Secretary of the Interior's Professional Qualification Standards shall oversee the preparation of the sketch plans, photographs and written data. The existing DPR forms shall fulfill the requirements for the written data report.

The City of San José's Historic Preservation Officer shall review the documentation, and then the applicant shall file the documentation with the San José Library's California Room and the Northwest Information Center at Sonoma State University, the repository for the California Historical Resources Information System prior to the issuance of any demolition permits. All documentation shall be submitted on archival paper.

Relocation by a Third Party: The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street shall be advertised for relocation by a third party. The project applicant shall be required to advertise the availability of the buildings for a period of no less than 30 days. The advertisements must include a newspaper of general circulation, a website, and notice on the project site. The project applicant must provide evidence (i.e., receipts, date and time stamped photographs, etc.) to the Director of Planning, Building and Code Enforcement or the Director's designee that this condition has been met prior to the issuance of demolition or grading permits, whichever comes first.

If a third party does agree to relocate the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, the following measures shall be completed:

1. The City's Director of Planning, Building and Code Enforcement or the Director's designee, based on consultation with the City's Historic Preservation Officer, must determine that the receiver site is suitable for the building.
2. Prior to relocation, the project applicant or third party shall hire a historic preservation architect and a structural engineer to undertake an existing condition study. The purpose of the study shall be to establish the baseline condition of the building prior to relocation. The documentation shall take the form of written descriptions and visual illustrations, including those character-defining physical features of the resource that convey its historic significance and must be protected and preserved. The documentation shall be reviewed and approved by the City's Historic Preservation Officer prior to the structure being moved. Documentation

already completed shall be used to the extent possible to avoid repetition in work.

3. To protect the building during relocation, the third party shall engage a building mover who has experience moving similar historic structures. A structural engineer shall also be engaged to determine if the building needs to be reinforced/stabilized before the move.
4. Once moved, the building shall be repaired and restored, as needed, by the project applicant or third party in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. In particular, the character-defining features shall be restored in a manner that preserves the integrity of the features for the long-term preservation of these features.

Upon completion of the repairs, a qualified architectural historian shall document and confirm that renovations of the structure were completed in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and that all character-defining features were preserved. The project applicant shall submit a report to the City's Historic Preservation Officer documenting the relocation.

Salvage: If no third party relocates the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, they shall be made available for salvage to salvage companies facilitating the reuse of historic building materials. The time frame available for salvage shall be established by the Director of Planning, Building and Code Enforcement or the Director's designee, together with the City's Historic Preservation Officer.

The project applicant must provide evidence to the Director of Planning, Building and Code Enforcement or the Director's designee, that this condition has been met prior to the issuance of demolition or grading permits, whichever comes first.

MM CUL-1.2:

A qualified historian shall create a permanent interpretive program, exhibit, or display of the history of the property including, but not limited to, historic and current condition photographs, interpretive text, drawings, video, interactive media, or oral histories. Any exhibit or display shall be placed in a suitable publicly accessible location on the project site. The final design of the commemorative interpretive program, exhibit, or display shall be determined in coordination with the City's Historic Preservation Officer.

Even with implementation of the identified mitigation measures, demolition or salvage of these buildings would be a significant unavoidable impact because they would be permanently lost. Relocation, while preserving the buildings in a different location, would also result in a loss of connection to its current location in the Burbank community. **(Significant Unavoidable Impact)**

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

General Plan Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will 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. As discussed previously, the project site has low potential for Native American resources and historic-era archaeological resources.

Earthmoving activities on-site could uncover and/or damage potential unidentified subsurface resources. The project shall implement the following Standard Permit Conditions to reduce and avoid impacts to as yet unidentified archaeological resources.

Standard Permit Condition:

- 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 or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement 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.

With implementation of the above Standard Permit Condition, the proposed project would result in a less than significant impact to subsurface archaeological resources. **(Less than Significant Impact)**

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

Consistent with General Plan policy ER-10.2, the proposed project would be required to comply with the following Standard Permit Conditions to ensure human remains would not be disturbed.

Standard Permit Condition:

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 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 the mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of the above Standard Permit Condition, impacts to human remains would be less than significant. **(Less than Significant Impact)**

3.5.1.6 Cumulative Impacts

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

The geographic study area is the project site and surrounding area (within 1,000 feet of the project site). The potential impacts to subsurface cultural resources would be minimized and/or avoided with implementation of the Standard Permit Conditions above. As such, the recovery of subsurface resources on-site would not be cumulatively considerable. The City of San José has concluded that the buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the City of San José's HRI as Candidate City Landmarks because they are two of the few remaining commercial buildings on West San Carlos Street that represent the early-20th century development of Burbank and the people that lived in the Burbank community during that time. Due to the on-going redevelopment of West San Carlos Street within the Burbank area, demolition of these buildings would constitute a cumulatively considerable impact to the historical resources associated with the Burbank community. **(Significant Unavoidable Cumulative Impact)**

3.6 ENERGY

3.6.1 Environmental Setting

3.6.1.1 *Regulatory Framework*

Federal and State

Energy Star and Fuel Efficiency

At the federal level, energy standards set by the EPA apply to numerous consumer products and appliances (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the State's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO₂ from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years.²⁹

²⁹ California Building Standards Commission. "California Building Standards Code." Accessed March 9, 2021. <https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo>.

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to State environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.³⁰

City of San José

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.

Sustainable City Strategy

The Sustainable City Strategy is a statement of the City's commitment to becoming an environmentally and economically sustainable city by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management and energy efficiency.

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

³⁰ California Air Resources Board. "The Advanced Clean Cars Program." Accessed July 23, 2021. <https://www.arb.ca.gov/msprog/acc/acc.htm>.

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).

Envision San José 2040 General Plan

The following policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to energy and are applicable to the project.

| General Plan Policies – Energy | |
|---------------------------------------|--|
| MS-1.1 | Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction. |
| MS-2.3 | Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption. |
| 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 or other area functions. |
| MS-5.5 | Maximize recycling and composting from all residents, businesses, and institutions in the City. |
| MS-6.5 | Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events. |
| MS-6.8 | Maximize reuse, recycling, and composting citywide. |
| MS-14.1 | Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance. |
| MS-14.2 | Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places. |
| MS-14.3 | Consistent with the California Public Utilities Commission’s California Long Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero net energy use. |
| MS-14.4 | Implement the City’s Green Building Policies (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, and passive solar building design and planting of trees and other landscape materials to reduce energy consumption. |
| MS-14.5 | Consistent with State and Federal policies and best practices, require energy efficiency audits and retrofits prior to or at the same time as consideration of solar electric improvements. |

| General Plan Policies – Energy | |
|---------------------------------------|---|
| MS-17.2 | Ensure that development within San José is planned and built in a manner consistent with fiscally and environmentally sustainable use of current and future water supplies by encouraging sustainable development practices, including low-impact development, water-efficient development and green building techniques. Support the location of new development within the vicinity of the recycled water system and promote expansion of the South Bay Water Recycling (SBWR) system to areas planned for new development. Residential development outside of the Urban Service Area can be approved only at minimal levels and only allowed to use non-recycled water at urban intensities. For residential development outside of the Urban Service Area, restrict water usage to well water, rainwater collection, or other similar sustainable practice. Non-residential development may use the same sources and potentially make use of recycled water, provided that its use will not result in conflicts with other 2040 General Plan policies, including geologic or habitat impacts. To maximize the efficient and environmentally beneficial use of water, outside of the Urban Service Area, limit water consumption for new development so that it does not diminish the water supply available for projected development in areas planned for urban uses within San José or other surrounding communities. |
| MS-19.1 | Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply. |
| MS-19.4 | Require the use of recycled water wherever feasible and cost-effective to serve existing and new development. |
| IN-5.3 | Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City’s Zero Waste goals. |
| 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. |
| TR-1.4 ³¹ | Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand. |
| 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. |
| 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. |

³¹ TR-1.4, as shown, is modified in this list to reflect only those items relevant to the discussion of energy.

3.6.1.2 Existing Conditions

Total energy usage in California was approximately 7,877 trillion British thermal units (Btu) in the year 2018, the most recent year for which this data was available.³² Out of the 50 states, California is ranked second in total energy consumption and 46th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,440 trillion Btu) for residential uses, 19 percent (1,510 trillion Btu) for commercial uses, 23 percent (1,848 trillion Btu) for industrial uses, and 39 percent (3,078 trillion Btu) for transportation.³³ This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Electricity

Electricity in Santa Clara County in 2019 was consumed primarily by the commercial sector (76 percent), followed by the residential sector consuming 24 percent. In 2019, a total of approximately 16,664 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.³⁴

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity, and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity from entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2019, residential and commercial customers in California used 34 percent of the State's natural gas, electric power used 27 percent, the industrial sector used 36 percent, vehicle fuel used one percent, and other uses used two percent.³⁵ Transportation accounted for one percent of natural gas use in California. In 2019, Santa Clara County used approximately 3.5 percent of the State's total consumption of natural gas.³⁶

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.³⁷ The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily

³² United States Energy Information Administration. "State Profile and Energy Estimates, 2018." Accessed March 9, 2021. <https://www.eia.gov/state/?sid=CA#tabs-2>.

³³ Ibid.

³⁴ California Energy Commission. "Electricity Consumption by County." Accessed March 10, 2021. <http://ecdms.energy.ca.gov/electbycounty.aspx>.

³⁵ United States Energy Information Administration. "Natural Gas." Accessed March 10, 2021. https://www.eia.gov/dnav/ng/ng_sum_lsum_dcua_sca_a.htm.

³⁶ California Energy Commission. "Natural Gas Consumption by County." Accessed March 11, 2021. <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

³⁷ California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed March 11, 2021. <https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist>.

increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.³⁸ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was updated in March 2020 to require all cars and light duty trucks achieve an overall industry average fuel economy of 40.4 mpg by model year 2026.^{39,40}

3.6.1.3 *Impact Discussion*

For the purpose of determining the significance of the project's impact on energy, would the project:

- a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?
- b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?

3.6.1.4 *Project Impacts*

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

Construction

Construction would occur over a period of 21 months. The proposed project includes several measures that would improve the efficiency of the construction process such as restricting equipment idle times to five minutes or less and requiring the applicant to post signs on-site reminding workers to shut off idle equipment (refer to the Standard Permit Conditions in *Section 3.3* of this document). The project would also recycle or salvage approximately 75 percent of construction waste as part of compliance with the City's Construction and Demolition Diversion Program. For these reasons, the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction.

Operation

The proposed project would construct up to 61 dwelling units, approximately 6,000 square feet of ground floor retail, 246 senior care units, 86 surface parking spaces, and 113 parking spaces in an enclosed parking structure. Table 3.6-1 summarizes the estimated energy use of the proposed project.

³⁸ United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. Accessed March 11, 2021. <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P1010UBX.pdf>.

³⁹ United States Department of Energy. *Energy Independence & Security Act of 2007*. Accessed March 11, 2021. <http://www.afdc.energy.gov/laws/eisa>.

⁴⁰ Public Law 110-140—December 19, 2007. *Energy Independence & Security Act of 2007*. Accessed March 11, 2021. <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

| Table 3.6-1: Estimated Annual Energy Use of Proposed Development | | | |
|---|------------------------------|---|--|
| Development | Electricity Use (kWh) | Natural Gas Use (kBtu)¹ | Gasoline (gallons per year)² |
| Enclosed Parking Structure | 237,300 | 0 | 0 |
| Parking Lot | 12,040 | 0 | 0 |
| Condo/Townhouse | 295,757 | 1,052,840 | 21,072 |
| Congregate Care (Assisted Living) | 951,142 | 2,061,890 | 53,785 |
| Strip Mall | 62,340 | 14,040 | 7,815 |
| Total: | 1,558,579 | 3,128,770 | 82,672 |
| Source: Illingworth & Rodkin, Inc. <i>1881 West San Carlos Street Senior Facility and Multi-family Housing Air Quality Assessment</i> . June 15, 2021 Note: ¹ The City of San José passed an ordinance in December 2020 which prohibits the use of natural gas infrastructure in new buildings starting on August 1, 2021. Given that the senior care component could potentially use equipment that requires natural gas, it was conservatively assumed that the proposed project would use natural gas. ² Condo/Townhouse Annual VMT 524,700 / 24.9 mpg = 21,072 gallons of gasoline. Congregate Care (Assisted Living) Annual VMT 1,339,242 / 24.9 mpg = 53,785 gallons of gasoline. Strip Mall Annual VMT 194,599 / 24.9 mpg = 7,815 gallons of gasoline. | | | |

The proposed project would result in an increase in electricity usage of approximately 1,558,579 kWh, an increase in natural gas usage of approximately 3,128,770 kBtu, and an increase of approximately 82,672 gallons of gasoline consumption. The increase in electricity use is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. The proposed project would be required to be built in accordance with CALGreen requirements, which includes insulation and design provisions to minimize wasteful energy consumption. In addition, General Plan Action MS-2.11 requires development to incorporate green building practices through construction, architectural design, and site design techniques. The project, as proposed, would be designed and constructed in compliance with the City of San José Council Policy 6-32, the City's Green Building Ordinance, and LEED Silver Certification.

The project would be required to comply with the City's bicycle parking requirement. In addition, the project site is adequately served by existing transit services (refer to *Section 3.17 Transportation*). The inclusion of bicycle parking, proximity to transit, and location would incentivize the use of alternative methods of transportation to and from the site and would reduce gasoline consumption.

Implementation of the proposed project would not result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during operation of the project. **(Less Than Significant Impact)**

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

The project would be served by SJCE and would be built in accordance with CALGreen requirements, Title 24 of the City's Municipal Code, City of San José Council Policy 6-32, and the City's Green Building Ordinance.

Therefore, implementation of the proposed project would not conflict with or obstruct implementation of a State or local plan for renewable energy or energy efficiency. **(Less Than Significant Impact)**

3.6.1.5 *Cumulative Impacts*

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

The geographic area for cumulative energy impacts is defined as the City of San José. Past, present, and future development projects contribute to the State's energy impacts. As discussed above, the project would not result in significant energy impacts, conflict, or obstruct with a State or local plan for energy efficiency, or result in a substantial increase in demand upon energy resources in relation to projected supplies. Therefore, the project would not have a cumulatively considerable contribution to a significant cumulative energy impact. **(Less Than Significant Cumulative Impact)**

3.7 GEOLOGY AND SOILS

3.7.1 Environmental Setting

3.7.1.1 *Regulatory Framework*

State

Alquist-Priolo Earthquake Fault Zoning Act

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

Seismic Hazards Mapping Act

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

California Building Standards Code

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

California Division of Occupational Safety and Health Regulations

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

Public Resources Code Section 5097.5

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

City of San José

City of San José Policies

Title 24 of the San José Municipal Code includes the 2016 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards and are applicable to the project.

| General Plan Policies - Geology, Soils, and Seismic Hazards | |
|--|--|
| ES-4.9 | Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level. |
| ES-4.10 | Update, as necessary, the San José Building Code, Fire Prevention Code and Municipal Code to address geologic, fire, flooding and other hazards, and to respond to changes in applicable State Codes. |
| 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. |
| EC-3.2 | Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed. |

| General Plan Policies - Geology, Soils, and Seismic Hazards | |
|--|---|
| EC-3.3 | The City of San José Building Official shall require conformance with State law regarding seismically vulnerable unreinforced masonry structures within the City. |
| EC-3.4 | The City of San José will maintain up-to-date seismic hazard maps with assistance from the California Geological Survey (or other State agencies) under the Alquist-Priolo Earthquake Fault Zoning Act and the California Seismic Hazards Mapping Act. |
| 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. |
| 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. |
| EC-4.2 | Approve development in areas subject to soils and geologic hazards, including un-engineered 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. |
| EC-4.3 | Locate new public improvements and utilities outside of areas with identified soils and/or geologic hazards (e.g., deep seated landslides in the Special Geologic Hazard Study Area and former landfills) to avoid extraordinary maintenance and operating expenses. Where the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented. |
| EC-4.4 | Require all new development to conform to the City of San José's Geologic Hazard Ordinance. |
| EC-4.5 | Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15. |
| EC-4.7 | Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated. |

3.7.1.2 *Existing Conditions*

Regional Geology

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface (bgs). The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the east and Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains.

On-Site Geologic Conditions

Topography and Soils

Soils on-site are comprised of Urbanland-Campbell complex of zero to two percent slopes.⁴¹ The soils consist of silt loam, silty clay loam, and silty clay layers with moderate to very high expansion potential. There are no unique geological features on or adjacent to the project site and the topography of the project area is relatively flat.

Groundwater

Groundwater at the project site is estimated at a depth of approximately 44 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall and underground drainage patterns, and other factors.

Seismic Hazards

The San Francisco Bay Area is recognized by geologists as one of the most seismically active regions in the United States. Significant earthquakes occurring in the Bay Area are generally associated with the San Andreas Fault system, which spans the Coast Ranges from the Pacific Ocean to the San Joaquin Valley. There are no active faults in the project area.

Liquefaction

Liquefaction occurs when water saturated soils lose integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the Santa Clara County Geological Hazard Map, the project site is not located in a potential liquefaction zone.⁴²

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Areas of the City most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. The project site is not located within the vicinity of Los Gatos Creek or Guadalupe River. The nearest creek to the site is Los Gatos Creek, which is located approximately

⁴¹ United States Department of Agriculture. Custom Soil Report. Generated September 2, 2021.

⁴² County of Santa Clara. Geologic Hazards Zones, Map 19. 2012. Accessed September 2, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

1.4 miles east of the project site. Due to this distance, the potential for lateral spreading on-site is low.

Landslide

The site is not located within a Santa Clara County Landslide Hazard Zone.⁴³ The project area is relatively flat; therefore, the probability of landslides occurring at the site during a seismic event is low.

3.7.1.3 *Impact Discussion*

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

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

3.7.1.4 *Project Impacts*

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

⁴³ County of Santa Clara. Geologic Hazards Zones, Map 19. 2012. Accessed September 2, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

The project site would be subject to strong seismic ground shaking and seismic-related ground failure in the event of a large earthquake. There are no active faults in the immediate project area. As mentioned previously, the soils on-site have moderate to very high expansion potential. The nearest creek to the site is located approximately 1.4 miles east; therefore, the potential for lateral spreading during a seismic event would be low. The potential for liquefaction and landslides on-site would also be low.

Consistent with the General Plan and current standard practices in the City of San José, the project would be required to implement the following Standard Permit Condition to reduce significant seismic and seismic-related impacts.

Standard Permit Condition:

- To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City 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.

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

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

The project site would require excavation to a depth of approximately 22 feet bgs for the parking garage. Any ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until project construction is complete. The project would implement the following Standard Permit Conditions to reduce construction-related erosion impacts.

Standard Permit Conditions:

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

In addition to the Standard Permit Conditions, the project would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) under the National Pollution Discharge Elimination System (NPDES) General Construction Permit and the City's Municipal Code (refer to *Section 3.10, Hydrology and Water Quality*). Implementation of the Standard Permit Conditions and preparation of the SWPPP would reduce potential soil erosion impacts to a less than significant level. **(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 site is not at risk of landslides, lateral spreading, or collapse due to the location of the project in the City. Additionally, the project site is not located within a liquefaction hazard area as defined on the California Department of Conservation maps. While the soils on-site have moderate to very high expansion potential, the proposed project would be required to use standard engineering and seismic safety design techniques during project construction (refer to Standard Permit Condition above). Therefore, the proposed project would not result in destabilization of the project site as a result of on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. **(Less than Significant Impact)**

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

The project would be required to prepare a design-level geotechnical investigation and implement the recommendations in the investigation to avoid or minimize potential damage from seismic shaking (refer to Standard Permit Condition above). Although the soils on-site have moderate to very high expansion potential, implementation of the above Standard Permit Conditions would ensure that the project would not result in substantial direct or indirect risks to life or property **(Less than Significant Impact)**

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

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

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

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet bgs, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates.

Implementation of the project would require excavation work for the below-grade parking garage. The project would be required to comply with all applicable City regulatory programs pertaining to unknown buried paleontological resources including the following Standard Permit Condition to avoid and reduce construction-related paleontological resources impacts.

Standard Permit Condition:

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

With implementation of the above Standard Permit Condition, the proposed project would have a less than significant paleontological resources impact. **(Less than Significant Impact)**

3.7.1.5 Cumulative Impacts

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

The geographic study area for cumulative impacts to geological resources is the surrounding area (within 1,000 feet of the project site). The project would comply with City policies, existing regulations, and the Standard Permit Conditions included above to avoid and/or reduce impacts related to geologic hazards. In addition, the project would be constructed consistent with CBC requirements and a site-specific geotechnical investigation shall be prepared for the site to avoid and/or reduce geology and soils impacts to a less than significant level. For these reasons, the proposed project would not result in a cumulatively considerable contribution to a significant geology and soils impact. **(Less than Significant Cumulative Impact)**

3.8 GREENHOUSE GAS EMISSIONS

The following discussion is based upon a Greenhouse Gas Compliance Checklist provided by the applicant in May 2021. The checklist is attached in Appendix D of this document.

3.8.1 Environmental Setting

3.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of CO₂ equivalents (CO₂e). The most common GHGs are carbon dioxide (CO₂) and water vapor but there are also several others, most importantly methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO₂ and N₂O are byproducts of fossil fuel combustion.
- N₂O is associated with agricultural operations such as fertilization of crops.
- CH₄ is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and SF₆ emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

3.8.1.2 *Regulatory Framework*

State

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of

GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of CO₂E (MMTCo₂e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCo₂e.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

Regional

2017 Clean Air Plan

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

CEQA Air Quality Guidelines

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

City of San José

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).
- 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.

Reach Building Code

In 2019, the San José City Council approved Ordinance No. 30311 and adopted Reach Code Ordinance (Reach Code) to reduce energy-related GHG emissions consistent with the goals of Climate Smart San José. The Reach Code applies to new construction projects in San José. It requires new residential construction to be outfitted with entirely electric fixtures. Mixed-fuel buildings (i.e., use of natural gas) are required to demonstrate increased energy efficiency through a higher Energy Design Ratings and be electrification ready. In addition, the Reach Code requires electric vehicle (EV) charging infrastructure for all building types (above current CALGreen requirements), and solar readiness for non-residential buildings.

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)

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards.

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City's Greenhouse Gas Reduction Strategy (GHGRS) to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHGRS is intended to meet the mandates outlined in the CEQA Guidelines, as well as the BAAQMD requirements for Qualified GHGRS.

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

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

The environmental impacts of the GHGRS were analyzed in the General Plan Final Environmental Impact Report (FEIR) as amended. Beyond 2020, the emission reductions in the GHGRS are not large enough to meet the City's identified 3.04 metric tons (MT) carbon dioxide equivalent per service population (CO₂e/SP) efficiency metric for 2035. An additional reduction of 5,392,000 MT CO₂e per year would be required for the projected service population to meet the City's target for 2035.⁴⁴

Achieving the substantial communitywide GHG emissions reductions needed beyond 2020 cannot be done alone with the measures identified in the GHGRS adopted by the City Council in 2015. The General Plan FEIR (as amended) disclosed that it would require an aggressive multiple-pronged approach that includes policy decisions and additional emission controls at the federal and State level, new and substantially advanced technologies, and substantial behavioral changes to reduce single occupant vehicle trips – especially to and from workplaces. Future policy and regulatory decisions by other agencies (such as CARB, California Public Utilities Commission, California Energy Commission, MTC, and BAAQMD) and technological advances are outside the City's

⁴⁴ As described in General Plan FEIR (as amended), the 2035 efficiency target above, reflects a straight line 40 percent emissions reduction compared to the projected citywide emissions (10.90 MT CO₂e) for San José in 2020. It was developed prior to issuance of Executive Order S-30-15 in April 2015, which calls for a statewide reduction target of 40 percent by 2030 (five years earlier) to keep on track with the more aggressive target of 80 percent reduction by 2050. The necessary information to estimate a second mid-term or interim efficiency target (e.g., statewide emissions, population and employment in 2030) is being developed by CARB.

control, and therefore could not be relied upon as feasible mitigation strategies at the time of the latest revisions to the GHGRS (e.g., when the Final General Plan Supplemental FEIR was certified on December 15, 2015). Thus, the City Council adopted overriding considerations for the identified cumulative impact for the 2035 timeframe.

The General Plan includes an implementation program for monitoring, reporting progress on, and updating the GHGRS over time as new technologies or practical measures are identified.

Implementation of future updates is called for in General Plan Policies IP-3.7 and IP-17.2 and embodied in the GHGRS. The City of San José recognizes that additional strategies, policies and programs, to supplement those currently identified, would ultimately be required to meet the mid-term 2035 reduction target of 40 percent below 1990 levels in the GHGRS and the target of 80 percent below 1990 emission levels by 2050.

Various policies in the City’s 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to air quality, as listed in the following table. In addition, goals and policies throughout the 2040 General Plan encourage a reduction in vehicle miles traveled through land use, pedestrian, bicycle, and access to transit improvements, parking strategies that reduce automobile travel through parking supply and pricing management, and requirements for Transportation Demand Management programs for large employers. Additional policies have been adopted to reduce energy use (and thus emissions from fuel use). Refer to *Sections 3.3 Air Quality, 3.6 Energy, and 3.16 Transportation* for these policies.

| General Plan Policies - GHG Emissions | |
|--|--|
| MS-1.1 | Demonstrate leadership in the development and implementation of green building policies and practices. Ensure that all projects are consistent with or exceed the City’s Green Building Ordinance and City Council Policies as well as State and/or regional policies which require that projects incorporate various green building principles into their design and construction. |
| MS-1.4 | Foster awareness of San José’s business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives. |
| MS-2.11 | Require new development to incorporate green building policies, 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 effectiveness of passive solar design.). |
| MS-5.5 | Maximize recycling and composting from all residents, businesses, and institutions in the City. |
| MS-5.6 | Enhance the construction and demolition debris recycling program to increase diversion from the building sector. |
| 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 |

| General Plan Policies - GHG Emissions | |
|---------------------------------------|--|
| | energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption. |
| MS-21.1 | Manage the Community Forest to achieve San José's environmental goals for water and energy conservation, wildlife habitat preservation, stormwater retention, heat reduction in urban areas, energy conservation, and the removal of carbon dioxide from the atmosphere. |

3.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in weather patterns.

The project site is developed with four commercial buildings, totaling 32,847 square feet, and associated parking. GHG emissions on-site are generated by vehicles traveling to and from the site. GHG emissions are also generated from lighting, heating and cooling of the buildings.

3.8.2 Impact Discussion

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

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

3.8.2.1 *Project Impacts*

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

Construction Emissions

Construction activities associated with the project would generate GHG emissions from equipment and worker, hauling, and vendor trips. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction related GHG emissions are significant. BAAQMD recommends the incorporation of best management practices to reduce GHG emissions during construction, as feasible and applicable. The proposed project would recycle or salvage at least 75 percent of construction waste as part of compliance with the City's Construction and Demolition Diversion Program and use alternatively fueled or electric equipment wherever possible (refer to Mitigation Measure AIR-1.1). Since project construction would occur for 21 months and would incorporate best management practices, implementation of the project would

not generate GHG emissions resulting in a significant impact on the environment. The proposed project would not interfere with the implementation of AB 32 or SB 32 and would result in a less than significant GHG emissions impact from construction.

Operational Emissions

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the General Plan land use designation for the site and planned growth from build out of the General Plan FEIR, the proposed project would comply with the 2030 GHGRS resulting in a less than significant impact.

The proposed project would not result in a permanent increase in emissions during construction. During operation of the proposed project, the project would comply with all applicable GHGRS consistency options (see below). Therefore, the project would result in a less than significant GHG emissions impact. **(Less Than Significant Impact)**

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

2030 San José Greenhouse Gas Reduction Strategy Compliance Checklist

BAAQMD adopted revised CEQA Air Quality Guidelines on June 2, 2010 and then adopted a modified version of the Guidelines in May 2017. The BAAQMD CEQA Air Quality Guidelines include thresholds of significance for GHG emissions. Pursuant to the latest CEQA Air Quality Guidelines, a local government may prepare a Qualified GHGRS that is consistent with AB 32 goals. The City of San José adopted the updated 2030 GHGRS in 2020. If a project is consistent with the City's GHGRS, it can be presumed that the project would not have significant GHG emissions under CEQA. The proposed project's consistency with these measures is summarized below (refer to Appendix D for more detail).

The 2030 GHGRS identifies required General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. The project is consistent with the General Plan designation and planned growth from build out of the General Plan FEIR. The proposed project would be required to comply with Policy 6-32, the City's Green Building Ordinance, and CBC requirements as well as General Plan Action MS-2.11 which requires development to incorporate green building practices through construction, architectural design, and site design techniques. Additionally, the project proposes to achieve LEED Silver certification. The proposed project would incorporate applicable mandatory measures of the GHGRS, including providing bicycle parking spaces consistent with City requirements and designing sidewalks consistent with the City's design guidelines. The proposed project would be required to comply with the Reach Code which aligns with Climate Smart San José goals. In addition, all new development (including the proposed project) would be required to be designed for energy efficiency and conservation per Climate Smart San José. The project proposes to install solar panels and would include high-efficiency appliances/fixtures. The project would implement all applicable GHGRS consistency options

intended to reduce GHG emissions.

Climate Smart San José

Climate Smart San José, adopted by the City, is a communitywide initiative intended to create a more sustainable, connected, and economically inclusive City. Climate Smart San José is aligned with General Plan growth patterns and General Plan policies which prioritize automobile-alternative transportation modes, encourage denser development, and ensure energy-efficient features are included in new buildings.

As mentioned previously, the project would be designed and constructed in compliance with the City of San José Council Policy 6-32 and the City's Green Building Ordinance. In addition, Action MS-2.11 of the General Plan requires new development to incorporate energy conservation and efficiency through site design, architectural design, and construction techniques. The proposed project is in a Planned Growth Area of the City that is well-served by transit. For these reasons, the project is consistent with the City's climate action goals as set forth in Climate Smart San José.

The project would be consistent with applicable GHGRS strategy and comply with Climate Smart San José. Therefore, the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. **(Less than Significant Impact)**

3.8.2.2 Cumulative Impacts

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

Build out of the General Plan would have a significant unavoidable GHG emissions impact beyond 2020 and the City adopted overriding considerations for development assumed under the General Plan. Past, present, and future development projects worldwide contribute to global climate change. No single project would be sufficient in size, by itself, to change the global average temperature. Due to the global nature of GHG emissions, a significant project-level impact is equivalent to a significant cumulative impact. As discussed above, the project would not result in a significant GHG impact. For these reasons, the project would not result in a cumulatively considerable GHG impact. **(Less than Significant Cumulative Impact)**

3.9 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment (ESA) prepared by AEI Consultants in October 2020. A copy of the Historic Resource Evaluation is attached in Appendix E.

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Overview

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and State laws. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces State worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

Federal and State

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by State and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB). The project site is not listed in the Cortese List.⁴⁵

⁴⁵ CalEPA. "Cortese List Data Resources." Accessed August 20, 2021. <https://calepa.ca.gov/sitecleanup/corteselist>.

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. The TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint.

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health (SCCDEH) reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials and Lead-Based Paint

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

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by the Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

City of San José

Municipal Regional Permit Provision C.12.f

Polychlorinated biphenyls (PCBs) were produced in the United States between 1955 and 1978 and used in hundreds of industrial and commercial applications, including building and structure materials such as plasticizers, paints, sealants, caulk, and wood floor finishes. In 1979, the EPA banned the production and use of PCBs due to their potential harmful health effects and persistence in the environment. PCBs can still be released to the environment today during demolition of buildings that contain legacy caulks, sealants, or other PCB-containing materials.

With the adoption of the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, Provision C.12.f requires that permittees develop an assessment methodology for applicable structures planned for demolition to ensure PCBs do not enter municipal storm drain systems.⁴⁶ Municipalities throughout the Bay Area are currently modifying demolition permit processes and implementing PCB screening protocols to comply with Provision C.12.f. Buildings constructed between 1950 and 1980 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit. Single family homes and wood-frame structures are exempt from these requirements.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to hazards and hazardous materials and are applicable to the project.

| General Plan Policies - Hazards and Hazardous Materials | |
|--|--|
| EC-6.1 | Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, State and federal laws, regulations and guidelines. |
| EC-6.2 | Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities. |
| EC-6.6 | Address through environmental review 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. |
| EC-6.7 | Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses. |
| EC-7.1 | For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. |
| EC-7.2 | Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards. |

⁴⁶ California Regional Water Quality Control Board. *San Francisco Bay Region Municipal Regional Stormwater NPDES Permit*. November 2015.

| General Plan Policies - Hazards and Hazardous Materials | |
|--|--|
| EC-7.3 | Where a property is located in proximity to known groundwater contamination with volatile organic compounds or within 1,000 feet of an active or inactive landfill, evaluate and mitigate the potential for indoor air intrusion of hazardous compounds to the satisfaction of the City's Environmental Compliance Officer and appropriate regional, State and federal agencies prior to approval of a development or redevelopment project. |
| 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. |
| EC-7.5 | On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements. |

3.9.1.2 *Existing Conditions*

The project site is currently developed with four commercial buildings and associated parking. Groundwater on-site is estimated at a depth of approximately 44 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns. Groundwater flows in a north to northwest direction.

3.9.1.3 *History of Project Site*

A land use history of the project site has been compiled based on a review of historical sources including Sanborn fire insurance maps, aerial photographs, and City directory listings, and agency records. From 1915 to the 1920s, the project site is developed with residential uses. By 1925 and 1939 to present day, the current buildings were constructed on-site. No significant changes have occurred since then.

3.9.1.4 *On-Site Sources of Contamination*

The structure that was previously located at the rear of the 1881 West San Carlos Street building is listed in the EDR Historic Cleaners database due to its former use as a laundromat in 1950. The available documentation did not identify that this tenant space was used for dry cleaning purposes. Additionally, none of the other businesses which have occupied the site used large quantities of hazardous materials. Based on the Phase I ESA, the site does not represent a significant environmental concern.

Based on the age of the existing buildings on-site, it is reasonable to assume that ACMs, LBP, and PCBs may be present in the buildings. As mentioned in *Section 3.5.1.2*, the project area was planted with orchards in 1953.⁴⁷ Since the project area was previously used for agricultural purposes, there is potential for impacts on-site due to residual agricultural chemicals.

⁴⁷ Holman & Associates. *Results of a CEQA Archaeological Literature Search*. November 2020.

3.9.1.5 *Off-Site Sources of Contamination*

Within one-mile of the project site, four sites of concern were determined to warrant additional discussion in the Phase I ESA and are discussed below. Groundwater flows in the north to northwest direction.

32 Brooklyn Avenue

The off-site facility located at 32 Brooklyn Avenue is located immediately north (down-gradient) from the project site. This site is registered as a non-generator of hazardous waste under the Resource Conservation and Recovery Act Non-Generator (RCRA Non-Gen) database. The site has no reported violations and; therefore, the site does not represent a significant environmental concern.

1886 West San Carlos Street

The 1886 West San Carlos Street site is located on the south side of West San Carlos Street (up-gradient) and is listed in the HAZNET, HAZMAT, Hazardous Waste Tracking System (HWTS), and Certified Unified Program Agencies (CUPA) Listings databases. The site is listed in the HAZNET and HWTS databases for the removal and off-site disposal of hazardous substances. The site is listed under the HAZMAT database as an auto wrecking/miscellaneous simple facility⁴⁸. Additionally, the 1886 West San Carlos Street site is listed in the CUPA database as a hazardous waste generator facility. Based on the lack of a documented release, the site does not represent a significant environmental concern.

1915 West San Carlos Street

The off-site facility at 1915 West San Carlos Street is located 110 feet west of the project site (cross-gradient) and is listed under the California Environmental Reporting System (CERS) Hazardous Waste, CERS, RCRA Non-Gen, CUPA Listings, and HAZMAT databases. Under the CERS databases, the site was identified as a registered hazardous waste generator and chemical storage facility with reported violations. The site was also listed in the CUPA database as a hazardous waste generator. The HAZMAT database identified the site as an auto wrecking/miscellaneous simple facility. Based on the lack of a documented release and release relative to groundwater flow, the site does not represent a significant environmental concern.

30 Cleveland Avenue

The off-site facility at 30 Cleveland Avenue is located 180 feet west of the project site (cross-gradient) and is listed under the EDR Historical Cleaners, Leaking Underground Storage Tank (LUST), Spills, Leaks, Investigations and Cleanups (SLIC), Historic Cortese, Non-Case Info, Historic LUST, Cortese, and CERS databases. The site was occupied by dry cleaning tenants from 1966 to 1977 and is listed under the LUST, SLIC, Historic Cortese and Non-Case Info databases for soil contamination. Based on GeoTracker records, the northeastern corner of the West San Carlos

⁴⁸ The miscellaneous simple facility designation is in conjunction with auto wrecking. Most of the time, there is not an actual auto wrecking going on (or even auto service), but this permit listing just designates that the operation is permitted by San José Fire for hazmat storage/use. Golino, Tory. AEI Consultants. Personal Communication. September 14, 2021.

Street and Cleveland Avenue intersection contained one 2,000-gallon UST that was used for storage of gasoline and one 7,500-gallon UST that was used for storage of perchloroethylene or petroleum distillates. Both USTs were removed in 1985. Soil samples were obtained from the area of the former USTs in 1987 and analyzed for total volatile hydrocarbons as gasoline, petroleum distillates and perchloroethylene. The sampling results indicated that PCE was not identified above the six parts per billion (ppb) laboratory detection limit. In addition, up to six parts per million (ppm) of Total Petroleum as Gasoline, up to 25 ppb of Benzene, up to seven ppb of Toluene and up to 260 ppb of Xylenes were present in the soil. Due to the lack of PCE in the soil sample, the RWQCB concluded that the agency did not need to open a case. No investigation or remedial action was required.

A separate LUST case for 30 Cleveland Street site was previously opened and as of August 21, 2002, the case is listed as closed. The Case Closure Summary references the 2,000-gallon gasoline UST and 7,500-gallon diesel of solvent UST that were removed in 1984 and 1985. Valley Water concluded that the source of contamination at this site (former USTs) had been removed, and no Benzene, Toluene, Ethylbenzene or Xylenes (BTEX) or Methyl tert-butyl ether (MTBE) were detected in recent soil and grab groundwater samples at this site. Trace levels of acetone in soil (0.24 ppm) and groundwater (35 ppb) were identified but were below levels of regulatory concern.

Based on the prior removal of the USTs, soil and groundwater sampling results, release relative to groundwater flow, and current regulatory status, the site does not represent a significant environmental concern.

No other off-site facilities have been identified as an environmental concern for the project site.

3.9.1.6 *Other Hazards*

Airports

The Norman Y. Mineta San José International Airport and Reid-Hillview Airport are located approximately 1.8 miles northeast and 5.7 miles east of the project site, respectively. Based on the Norman Y. Mineta Airport and Reid-Hillview Airport Comprehensive Land Use Plans (CLUPs), the project site is located outside both Airport Influence Areas (AIAs). Additionally, the proposed project is not located within a CLUP-defined safety zone or in the vicinity of a private airstrip.^{49,50}

For the project site, however, FAR Part 77 would require any proposed structure higher than approximately 33 feet above ground to be submitted to the FAA for airspace safety review.

⁴⁹ Walter B. Windus, PE. Aviation Consultant. *Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport*. May 2011. Accessed August 24, 2021.

https://www.sccgov.org/sites/dpd/DocsForms/Documents/ALUC_SJC_CLUP.pdf.

⁵⁰ Walter B. Windus, PE. Aviation Consultant. *Comprehensive Land Use Plan: Reid-Hillview Airport*. October 2007. Accessed September 3, 2021. https://stgenpln.blob.core.windows.net/document/ALUC_RHV_CLUP.pdf.

3.9.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, would the project:

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

3.9.2.1 *Project Impacts*

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

Project Construction

Any hazardous materials (e.g., any debris or soil containing LBP or coatings) that would be removed from the site during project construction would be transported and disposed of in accordance with all State and local regulations. With implementation of the Standard Permit Conditions below, the proposed project would not create a significant hazard to the public or environment from the disposal of these hazardous materials.

Project Operation

Operation of the proposed project would include the use of cleaning materials. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. Therefore, implementation of the proposed project would not create a significant hazard to the public or environment from the use, transport, or storage of these chemicals.

Hazardous materials removed from the site would be properly disposed of and the small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. **(Less than Significant Impact)**

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

As discussed above, no on-site or off-site sources of contamination have been identified that represent a significant environmental concern.

Due to the age of the existing buildings on-site, ACMs and/or LBP may be present on-site. Demolition of the buildings could cause asbestos particles to be released and expose construction workers and nearby building occupants to harmful levels of asbestos. If LBP is still bonded to the building materials, its removal is not required prior to demolition. If the LBP is flaking, peeling, or blistering, disturbance of these materials during demolition could expose construction workers to harmful levels of lead. The project would be required to implement the following Standard Permit Conditions consistent with OSHA requirements to reduce impacts due to the presence of ACMs and/or LBP.

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- All potentially friable ACMs shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

Conformance with regulatory requirements would result in a less than significant impact from ACMs and LBP.

Additionally, demolition of the structures on-site may include materials that contain PCBs that could be released into the environment. Buildings constructed between 1950 and 1980 that are proposed for

demolition shall be screened for the presence of PCBs prior to the issuance of a demolition permit. The PCB Screening Assessment Form is designed to ascertain whether or not the building targeted for demolition is subject to the PCB Screening Assessment. The project would be required to comply with the following Standard Permit Conditions.

Standard Permit Conditions:

- Buildings constructed between 1950 and 1980 that are proposed for demolition shall be screened for the presence of Polychlorinated biphenyls (PCBs) prior to the issuance of a demolition permit.
- If on-site buildings do contain PCBs that exceed threshold limits, the project applicant shall follow applicable federal and State laws, which may include reporting to such agencies as the Environmental Protection Agency (EPA), Regional Water Quality Control Board (RWQCB), and Department of Toxic Substances Control (DTSC), which may require additional sampling and abatement of PCBs.

Identification of PCBs using the Screening Assessment Form and conformance with relevant regulatory requirements would result in a less than significant PCB impact.

Conformance with regulatory requirements would result in a less than significant impact from ACMs, LBP, and PCBs. **(Less than Significant Impact)**

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

Luther Burbank School is located approximately 350 feet east of the project site. The project would not use or store hazardous materials in sufficient quantities to pose a health risk to any nearby school. In addition, any contaminated soils/materials hauled off-site would be done in accordance with applicable regulations and truck routes would be on primary roadways, not near the school. Implementation of existing regulations and adopted plans would substantially reduce hazards to people. Therefore, the proposed project would not present a risk to the sensitive receptors located at the nearby school due to hazardous emissions, materials transport, or waste generation. **(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 proposed project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.⁵¹ Construction of the project would not create a significant hazard to the public or the environment. **(Less than Significant Impact)**

⁵¹ CalEPA. "Cortese List Data Resources." Accessed August 20, 2021. <https://calepa.ca.gov/sitecleanup/corteselist>.

e) If 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 Norman Y. Mineta San José International Airport and Reid-Hillview Airport are located approximately 1.8 miles northeast and 5.7 miles east of the project site. The project site is not located within the Norman Y. Mineta San José International Airport or Reid-Hillview Airport CLUP-defined safety zone or the Airport Influence Area (AIA).

For the project site, any proposed structure of a height greater than approximately 33 feet above the ground surface is required to be submitted to the FAA for review (under FAR Part 77). As the proposed project would have a maximum height of 85 feet to the top of the stairs on the roof, notification to the FAA is required to determine the potential for the project to create an aviation hazard. The project would be required to follow all applicable General Plan policies (including General Plan Policy TR-14.2), regulations, and procedures outlined in the CLUP for the Norman Y. Mineta San José International Airport, as well as the Standard Permit Condition below.

Standard Permit Condition:

- **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a “Determination of No Hazard to Air Navigation” for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and “No Hazard Determination” expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.

Implementation of the above Standard Permit Condition would ensure that the project does not result in a safety hazard or excessive noise exposure due to activities of the Norman Y. Mineta San José International Airport. **(Less than Significant Impact)**

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

The project would be constructed in accordance with current building and fire codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan FEIR (as amended) to avoid unsafe building conditions. For this reason, the proposed project would not impair or interfere with the implementation of the City’s Emergency Operations Plan or any statewide emergency response or evacuation plans. **(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 proposed project is located in an urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **(Less Than Significant Impact)**

3.9.2.2 *Cumulative Impacts*

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

The geographic area for hazards and hazardous materials is the project site and surrounding area (within one mile of the project site) as hazardous materials contamination is typically a localized issue. No recognized environmental conditions from the release of hazardous materials were identified on the project site. The project would be required to implement Standard Permit Conditions to reduce impacts from ACMs and/or LBP. Additionally, the project would be screened for the presence of PCBs prior to the issuance of a demolition permit. For these reasons, the project would not result in any hazards and hazardous materials impacts that would not contribute to cumulative hazards and hazardous materials impacts. **(Less than Significant Cumulative Impact)**

3.10 HYDROLOGY AND WATER QUALITY

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

Overview

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

Federal and State

National Flood Insurance Program

The Federal Emergency Management Agency (FEMA) established the National Flood Insurance Program (NFIP) to reduce impacts of flooding on private and public properties. The program provides subsidized flood insurance to communities that comply with FEMA regulations protecting development in floodplains. As part of the program, FEMA publishes Flood Insurance Rate Maps (FIRMs) that identify Special Flood Hazard Areas (SFHAs). 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.

Statewide Construction General Permit

The SWRCB has implemented an NPDES General Construction Permit for the State of California (Construction General Permit). For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction. The Construction General Permit includes requirements for training, inspections, record keeping, and, for projects of certain risk levels, monitoring. The general purpose of the requirements is to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges.

Regional

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff

discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 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.⁵² Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g., rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the MRP requires co-permittee agencies to implement a control program for PCBs that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs waste load allocation in the Basin Plan by March 2030.⁵³ Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. Municipalities throughout the Bay Area are updating their demolition permit processes to incorporate the management of PCBs in demolition building materials to ensure PCBs are not discharged to storm drains during demolition. Buildings constructed between 1955 and 1978 that are proposed for demolition must be screened for the presence of PCBs prior to the issuance of a demolition permit.

Water Resources Protection Ordinance and District Well Ordinance

Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects

⁵² MRP Number CAS612008

⁵³ San Francisco Bay Regional Water Quality Control Board. *Municipal Regional Stormwater Permit, Provision C.12*. November 19, 2015.

within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.

Dam Safety Act

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail. Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and State levels. In accordance with the State Dam Safety Act, dams are inspected regularly, and detailed evacuation procedures have been prepared for each dam.

As part of its comprehensive dam safety program, Valley Water routinely monitors and studies the condition of each of its 10 dams. Valley Water also has its own Emergency Operations Center and a response team that inspects dams after significant earthquakes. These regulatory inspection programs reduce the potential for dam failure.

Construction Dewatering Waste Discharge Requirements

Each of the RWQCBs regulate construction dewatering discharges to storm drains or surface waters within its Region under the NPDES program and Waste Discharge Requirements.

City of San José

City of San José Grading Ordinance

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 issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the project will submit to the Director of Public Works and Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

Post-Construction Urban Runoff Management Policy 6-29

The City of San José's Post-Construction Urban Runoff Management Policy 6-29 was adopted to establish an implementation framework, consistent with Provision C.3 of the MRP. This policy requires all new and redevelopment projects to implement post-construction BMPs and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management Policy 8-14

The City of San José's Post-Construction Hydromodification Management Policy 8-14 establishes an implementation framework for projects that are subject to hydromodification controls in the Municipal Regional Stormwater NPDES permit.

Floodplain Ordinance – Municipal Code 17.08

City of San José Municipal Code 17.08 covers the requirements for building in various types of flood zones. This includes requirements for elevation, fill, flood passage, flood-proofing, maximum flow velocities, and utility placement for development within a floodplain, based on land use type.

Envision San José 2040 General Plan

The following policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to hydrology and water quality and are applicable to the project.

| General Plan Policies - Hydrology and Water Quality | |
|--|---|
| EC-5.1 | The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the “100-year” flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State. |
| EC-5.5 | Prepare and periodically update appropriate emergency plans for the safe evacuation of occupants of areas subject to possible inundation from dam and levee failure and natural flooding. Include maps with pre-established evacuation routes in dam failure plans. |
| 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. |
| EC-5.13 | As a part of the City’s policies for addressing the effects of climate change and projected water level rise in San Francisco Bay, it requires evaluation of projected inundation for development projects near San Francisco Bay or at flooding risk from local waterways which discharge to San Francisco Bay. For projects affected by increased water levels in San Francisco Bay, the City requires incorporation of mitigation measures prior to approval of development projects. Mitigation measures incorporated into project design or project location shall prevent exposure to substantial flooding hazards from increased water levels in San Francisco Bay during the anticipated useful lifetime of structures. |
| ER-8.1 | Manage stormwater runoff in compliance with the City’s Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies. |
| ER-8.3 | Ensure that private development in San José includes adequate measures to treat stormwater runoff. |
| ER-8.5 | Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite. |
| 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. |
| IN-3.4 | Maintain and implement the City’s Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to: |

| General Plan Policies - Hydrology and Water Quality | |
|--|---|
| | <ul style="list-style-type: none"> • Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. • Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. • Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. • Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City. |
| IN-3.7 | Design new projects to minimize potential damage due to storm waters and flooding to the site and other properties. |
| IN-3.9 | Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards. |

3.10.1.2 Existing Conditions

Water Quality

The project site is located 1.4 miles west from Los Gatos Creek which is the nearest water body. Based on data from the EPA⁵⁴, the Los Gatos Creek is currently listed on the California 303(d)⁵⁵ list for pesticides.

Flooding

According to the FEMA FIRM flood map of the area, the project site is within the Flood Zone D flood designation.⁵⁶ Zone D is an area of undetermined but possible flood hazard that is outside the 100-year flood plain. There are no City floodplain requirements for Zone D. Groundwater below the project site is 44 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Dam Failure

Based on the Valley Water dam failure inundation maps, the project site is not located within the Lenihan (Lexington) Dam failure inundation hazard zones.⁵⁷

⁵⁴ U.S. EPA. "California 303(d) Listed Waters." Accessed September 12, 2021. https://iaspub.epa.gov/tmdl_waters10/attains_waterbody.control?p_auid=CAR2054005019980928160437&p_cycle=2016.

⁵⁵ The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies

⁵⁶ Federal emergency Management Agency. Flood Insurance Rate Map #06085C0233H. May 18, 2009. Map.

⁵⁷ Santa Clara Valley Water District. "Lexington Dam Flood Inundation Maps." Accessed October 8, 2020. <https://www.valleywater.org/sites/default/files/Lexington%20Dam%20Inundation%20Map%202016.pdf>.

Seiches, Tsunamis, and Mudflows

A seiche is the oscillation of water in an enclosed body of water such as a lake or the San Francisco Bay. There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche.

A tsunami is a sea wave generated by an earthquake, landslide, or other large displacement of water in the ocean. There are no bodies of water near the project site that would affect the site in the event of a tsunami.⁵⁸

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site and surrounding area are relatively flat. The project site is not susceptible to mudflows.

Groundwater

Groundwater beneath the site is estimated 44 feet bgs. Fluctuations in the groundwater level may occur due to seasonal changes, variations in rainfall, and underground drainage patterns.

Hydromodification

Based on the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) watershed map for the City of San José, the site is located within a subwatershed greater than or equal to 65 percent impervious. Therefore, the project would not be subject to the NPDES hydromodification requirements.⁵⁹

3.10.1.3 *Impact Discussion*

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

- a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?
- b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
 - result in substantial erosion or siltation on- or off-site;
 - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;

⁵⁸ Association of Bay Area Governments. "Tsunami & Additional Hazards." Accessed October 8, 2020. <https://abag.ca.gov/our-work/resilience/data-research/tsunami-additional-hazards>.

⁵⁹ Santa Clara Valley Urban Runoff Pollution Prevention Program. "Local Hydromodification Management Applicability Maps." Accessed September 3, 2021. https://scvurppp.org/wp-content/uploads/2019/08/San_Jose_HMP_Map.pdf.

- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
 - impede or redirect flood flows?
- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?
- e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

3.10.1.4 *Project Impacts*

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

Construction-Related Water Quality Impacts

Construction activities on-site may result in temporary impacts to surface water quality. Implementation of the project would temporarily increase the amount of debris on-site and could increase erosion and sedimentation that could be carried off by runoff into the San Francisco Bay. Since the proposed project would disturb more than one acre of soil, the project would be required to obtain an NPDES General Construction Permit and prepare a SWPPP.

Additionally, all development projects in the City are required to comply with the City of San José's Grading Ordinance⁶⁰ whether or not the project is required to obtain an NPDES General Construction Permit. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant shall submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan shall detail BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

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.

⁶⁰ The San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality when a site is under construction.

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

With implementation of the above Standard Permit Conditions and conformance with the City's Grading Ordinance, construction of the proposed project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.

Post-Construction Impacts

Under existing conditions, the project site is entirely covered with impervious surface area (approximately 53,782 square feet). Upon completion of the proposed project, the site would be covered with approximately 86 percent (46,442 square feet) impervious surfaces, a net decrease of 14 percent. Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area; therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP.

The MRP requires all post-construction stormwater runoff to be treated by numerically sized LID treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. The project qualifies as a Special Project Category C-Transit Oriented Development. To treat stormwater runoff, the project proposes media filters and flow-through planters. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes how and why the implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact.

With implementation of the above Standard Permit Conditions, the project would have a less than significant construction-related water quality impact. With inclusion of LID stormwater treatment and compliance with the City's regulatory policies pertaining to stormwater runoff, the proposed project would have a less than significant operation-related water quality impact. **(Less than Significant Impact)**

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

Groundwater at the project site is estimated at a depth of approximately 44 feet bgs. As mentioned previously, the project site would require excavation to a depth of approximately 22 feet bgs for the parking garage. Given the depth of groundwater at the site, it is not likely that groundwater would be encountered on-site during excavation or construction of the project. In addition, the project site is not located within a designated recharge area nor does it contribute to the recharging of any groundwater aquifers. Therefore, the proposed project would not interfere with groundwater flow or impact the groundwater aquifer. **(Less than Significant Impact)**

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

Drainage Pattern Impacts

The project site is currently fully impervious and the proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. The proposed project would reduce the impervious surface area on-site which would reduce stormwater runoff from the site compared to existing conditions. Direct runoff from the roof, sidewalks, and patios would be directed to landscaped areas. Therefore, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff.

Storm Drainage Impacts

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 3.10-1 below.

| Table 3.10-1: Pervious and Impervious Surfaces On-Site | | | | | | |
|---|--|----------|--|----------|---------------------------|----------|
| Site Surface | Existing/Pre-Construction (sq ft) | % | Project/Post-Construction (sq ft) | % | Difference (sq ft) | % |
| Impervious Surfaces | | | | | | |
| Total | 53,782 | 100 | 46,442 | 86 | -7,340 | -14 |
| Pervious Surfaces | | | | | | |
| Total | 0 | 0 | 7,340 | 14 | +7,390 | +14 |
| Total: | 53,782 | 100 | 53,782 | 100 | | |

As mentioned previously, the project site is currently entirely covered with impervious surfaces. Under existing conditions, the storm drainage lines have sufficient capacity to serve the site. The

impervious surfaces on-site would decrease by approximately 7,340 square feet under project conditions which would result in a decrease in stormwater runoff. The project would comply with the City's Post-Construction Urban Runoff Policy 6-29 and the RWQCB MRP, to minimize and treat stormwater runoff to reduce the rate of stormwater runoff while removing pollutants. Therefore, the proposed project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.

The project would not substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows. **(Less than Significant Impact)**

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

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

As mentioned previously, the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D. As previously mentioned, the project site is located within the Lexington Dam failure inundation zone. The California Division of Safety of Dams (DSOD) inspects dam on an annual basis and Valley Water routinely monitors the 10 dams, including the Lexington dam. Therefore, the likelihood of flooding from dam failure is low and the project would not release pollutants due to dam 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 proposed project would comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the MRP; therefore, implementation of the project would not significantly impact water quality. The project site is not located within a groundwater recharge area and would not interfere with groundwater recharge. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan. **(Less than Significant Impact)**

3.10.1.5 Cumulative Impacts

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

All cumulative projects within San José would be required to implement the same project conditions related to construction water quality as the proposed project (including preparation of a SWPPP if disturbance is greater than one acre). In addition, all cumulative projects would be required to meet applicable MRP requirements and comply with City Council Policies 6-29 and 8-14 (on a project-specific basis). For these reasons, the proposed project would not result in a cumulatively considerable contribution on hydrology or water quality impacts. **(Less than Significant Cumulative Impact)**

3.11 LAND USE AND PLANNING

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

West San Carlos Urban Village Plan

The project site is located within the West San Carlos Urban Village Plan. Under the West San Carlos Urban Village Plan, the project site is designated as Mixed-Use Commercial within the Mixed-Use Commercial Character Area, as shown in Figure 2.1-5. The Urban Village designation supports a wide variety of commercial, residential, institutional, or other land uses with an emphasis on establishing attractive urban form and pedestrian orientation in keeping with the Urban Village concept. The Urban Village designation in the Mixed-Use Commercial Character Area is intended to accommodate a mix of commercial and residential development with an emphasis on commercial activity. New development with this designation should include commercial space equivalent to at least a 0.5 floor area ratio (FAR) with an overall FAR of up to 4.0. Consistent with the City's General Plan, a residential density of up to 50 dwelling units per acre (du/ac) is allowed in the Mixed-Use Commercial designation. The proposed project would be subject to the following land use policies from the West San Carlos Urban Village Plan.

| West San Carlos Urban Village Land Use Policies | |
|--|--|
| LU-1.1 | Encourage new commercial development to be built at Floor Area Ratios of 0.3 or greater |
| LU-2.3 | Prohibit surface parking lots in front of buildings |
| LU-2.5 | Where an existing commercial use redevelops within the Mixed-Use Commercial Character Area, the existing commercial square footage must be replaced with an equivalent commercial square footage in the new development, at a minimum. |
| P-1.8 | Ensure that new development provides convenient, walkable pedestrian connects through the site and to existing and planned open spaces. |
| UD-5.1 | Integrate new development appropriately into the existing residential neighborhoods by providing transitions, and by developing at a compatible scale. |
| UD-5.2 | Provide proper height transitions between new, higher-density commercial and mixed-use development and adjacent single-family homes by using building setback, upper-story setback, and landscaping to soften the transitions near property lines. |
| UD-5.3 | For new development adjacent to properties designated Residential Neighborhood (both inside and outside the Urban Village boundary), buildings and structures are encouraged to not intercept the 45-degree daylight plane as measured from the adjoining side or rear property line (see Figure 5.2 of the West San Carlos Urban Village Plan). |
| UD-5.6 | Provide a minimum five-foot landscape buffer planted with evergreen trees between new development and existing Residential Neighborhood designated properties. |

City of San José

Envision San José 2040 General Plan

This project would align with the City's General Plan goals associated with annexation for fiscally sustainable land use.

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to land use and are applicable to the project.

| General Plan Policies - Land Use | |
|---|---|
| CD-1.1 | Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses. |
| CD-1.8 | Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City. |
| 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. |
| 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. |
| 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. |
| CD-2.3 | <p>Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.</p> <ol style="list-style-type: none">1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.2. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as |

| General Plan Policies - Land Use | |
|---|--|
| | <p>car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.</p> <ol style="list-style-type: none"> 3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies. 4. Locate retail and other active uses at the street level. 5. Create easily identifiable and accessible building entrances located on street frontages or paseos. 6. Accommodate the physical needs of elderly populations and persons with disabilities. 7. Integrate existing or proposed transit stops into project designs. |
| CD-2.11 | <p>Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.</p> |
| CD-4.5 | <p>For new development in transition areas between identified growth areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, viewshed, or other land use compatibility concerns.</p> |
| CD-4.9 | <p>For development subject to design review, the design of new or remodeled structures will be 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).</p> |
| IP-5.4 | <p>Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, and property owners and developers who propose redevelopment of properties within the Urban Village areas. Proceed generally in the order of the following timeline, although some steps may be taken concurrently:</p> <ol style="list-style-type: none"> 1. City Council approves commencement of the Plan growth Horizon which includes the Urban Village Area during a Major 2040 General Plan Review. Completing Urban Village Plans for Urban Villages within the current Horizon is of greatest priority, but it is possible to prepare an Urban Village Plan for an Urban Village in an upcoming Horizon. 2. The City completes preparation of and Council reviews an Urban Village Plan. 3. The City or private property owners initiate rezoning for specific properties within the Urban Village as needed to implement the Urban Village Plan. Because most Urban Village sites initially have commercial zoning, rezoning will be necessary to provide for redevelopment and intensification with residential or residential mixed-use projects on those sites. |

| General Plan Policies - Land Use | |
|---|---|
| | 4. Private property owners or developers propose individual site designs and building architecture to be reviewed and determined through a Development Permit application and review process. |
| FS-3.9 | Per City, County and LAFCO policy, locate existing and future urban development within city boundaries. Implement this policy through San José's existing agreement with Santa Clara County which requires that unincorporated properties within the Urban Service Area either annex to the City, if possible, or execute a deferred annexation agreement prior to approval of development. |
| IP-11.1 | Carefully consider the implications for both the City and the affected properties of proposed annexations related to achievement of the City's fiscal sustainability and Level of Service goals, since annexation signifies the acceptance of responsibility to provide a wide range of necessary municipal facilities and services. |

San José Zoning Ordinance

The Zoning Ordinance, Title 20 of the San José Municipal Code, serves as an implementing tool for the General Plan by establishing specific development regulations and standards. The Zoning Ordinance divides the City of San José into zoning districts to guide future land uses.

3.11.1.2 *Existing Conditions*

Existing Land Uses

The project site is approximately 1.23 acres and is comprised of seven parcels (APNs 274-16-049, -050, -051, -052, -053, -069, and -070) located between Brooklyn Avenue and Boston Avenue and north of West San Carlos Street in the City of San José. The site is bounded by residential uses to the north, West San Carlos Street to the south, and commercial uses to the east and west. The project site is currently developed with four commercial buildings. The site is designated as Urban Village within the Mixed Use Commercial Character Area in the West San Carlos Urban Village Plan.

The site is designated *Mixed Use Commercial* under the City's General Plan and has two zoning districts. The property at 1881 West San Carlos is located in the *CP Commercial Pedestrian* Zoning District and the property at 17 Boston Street is located in the *R-M Multiple Residence* Zoning District. The remainder of the site has no designated zoning district as it is currently unincorporated. While a portion of the site is unincorporated, it is within the City's Sphere of Influence, so annexation through coordination with LAFCO will be required along with rezoning of all the parcels. The *Mixed Use Commercial* designation is intended to accommodate a mix of commercial and residential uses.

The 1881 West San Carlos Street site is located in the *CP Commercial Pedestrian* and the property at 17 Boston Street is located in the *R-M Multiple Residence* Zoning District. The *CP Commercial Pedestrian* Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The *Commercial Pedestrian* Zoning District also encourages mixed residential/commercial development

where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This district is also intended to support intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.

The *R-M Multiple Residence* Zoning District is intended to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development.

Surrounding Land Uses

Development in the area consists of commercial and residential land uses ranging from one to two stories in height. Located immediately north of the project site are single-family residences. East of the project site is Boston Avenue, a two-lane north-south roadway. East of Boston Avenue are one-story commercial buildings. South of the project site is West San Carlos Street, a divided four-lane east-west roadway. Immediately south of West San Carlos Street are one-story commercial buildings. Located west of the project site is Brooklyn Avenue, a two-lane north-south roadway. West of the roadway is a one-story commercial building and associated parking lot.

3.11.2 Impact Discussion

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

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

3.11.2.1 *Project Impacts*

a) Would the project physically divide an established community?

Changes in land use are not adverse environmental impacts in and of themselves, however, they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project would construct a mixed-use building with a condominium component and a senior care component on-site which is consistent with the General Plan and the West San Carlos Urban Village Plan. The proposed project does not include physical features (i.e., such as a railway, roadway, highway) that would physically divide the community. Additionally, the project would be consistent with the existing uses in the surrounding area (e.g., residential and retail land uses). For these reasons, the proposed project would not construct infrastructure that would physically divide an established community. **(Less than Significant Impact)**

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

The proposed project would construct a mixed-use building on-site, consistent with the West San Carlos Urban Village Plan. As mentioned previously, portions of the site are currently unincorporated (APN 274-16-050, -052, -053, -069, and -70) and would require annexation through coordination with LAFCO. In addition, all parcels on-site would be rezoned to the *CP Commercial Pedestrian* Zoning District. The senior care component would require a CUP while the residential/retail component of the project and the alternative parking arrangement and commercial condominiums would require a SUP. The CUP and SUP would be reviewed through a unified process under the CUP permit pursuant to Section 20.100.140. With approval of the annexation, rezoning, CUP (which would include SUP findings), and tentative map the project would be consistent with the zoning designation.

As described within the individual sections of this document implementation of the City's Standard Permit Conditions, and the required General Plan FEIR and regulatory requirements, the project would not cause a significant environmental impact due to a conflict with plans, policies or regulation adopted for the purpose of avoiding or mitigating an environmental effect. In addition, the project would be reviewed for compliance with applicable land use plans and policies. For these reasons, the impact would be less than significant. **(Less than Significant Impact)**

3.11.2.2 *Cumulative Impacts*

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

The geographic study area is San José. The proposed project would be subject to applicable land use plans, policies, and regulations for the purpose of avoiding or mitigating environmental impacts. Therefore, the project would not result in a cumulatively considerable contribution to a significant land use and planning impact. **(Less than Significant Cumulative Impact)**

3.12 MINERAL RESOURCES

3.12.1 Environmental Setting

3.12.1.1 *Regulatory Framework*

State

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California Legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the State subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

3.12.1.2 *Existing Conditions*

Under the SMARA, the SMGB has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than in this area, San José does not have mineral deposits subject to SMARA.⁶¹ The project site is located more than four miles northwest of Communications Hill.

3.12.2 Impact Discussion

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

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

⁶¹ City of San José. *Envision San José 2040 General Plan FPEIR*. September 2011.

3.12.2.1 *Project Impacts*

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

The proposed project is not located near Communications Hill, an area consisting of construction aggregate materials, and would not result in the loss of availability of locally important mineral resources. **(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?**
-

No mineral resource recovery sites are located near or in the immediate vicinity of the project site. Therefore, the proposed project would not result in the loss of availability of a locally important mineral resource recovery site. **(No Impact)**

3.12.2.2 *Cumulative Impacts*

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

The project site is located within an urbanized area of San José and is not located within an area containing known mineral resources. Therefore, the project would not result in a cumulatively considerable contribution to a significant mineral resources impact. **(No Cumulative Impact)**

3.13 NOISE

The following discussion is based on a Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc. in July 2021. A copy of this report is included as Appendix F of this document. Public comments received during the NOP scoping process pertained to noise from project traffic. Project-generated traffic noise impacts are addressed in Section 3.13.2.1 below.

3.13.1 Environmental Setting

3.13.1.1 *Background Information*

Noise

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, State, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including L_{eq} , DNL, or CNEL.⁶² These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). L_{max} is the maximum A-weighted noise level during a measurement period.

Vibration

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

⁶² L_{eq} is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional five dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within two dBA of the peak-hour L_{eq} .

3.13.1.2 *Regulatory Framework*

State

California Building Standards Code

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

Transportation and Construction Guidance Manual

In 2013, the California Department of Transportation published a Transportation and Construction Guidance Manual. The Manual developed a synthesis of various vibration criteria to assess the damage potential for representative categories of structures and effects upon people.

The guideline criteria is summarized in Table 3.13-1 below which include seven categories. The first two categories (Categories 1 and 2) address human perceptibility of vibration only. The five remaining categories (Categories 3 through 7) address human perceptibility and potential for damage to buildings described as extremely fragile historic buildings, ruins, ancient monuments; fragile buildings; historic and some old buildings; older residential structures; new residential structures; and modern industrial/commercial buildings. Most, if not all, buildings in the downtown area would fall into Categories 5 through 7.

The goal in establishing vibration limits is to mitigate potential vibration impacts associated with demolition and construction activities to a less-than-significant level by establishing safe limits to protect structures from potential damage and to minimize vibration impacts on people and businesses.

| Table 3.13-1: Construction Vibration Threshold Criteria | | | |
|--|---|--|---|
| Category | Continuous PPV at affected building (inch/sec) | Human Reaction | Effect on Buildings |
| 1 | 0.01 | Barely perceptible | No effect |
| 2 | 0.04 | Distinctly perceptible | Vibration unlikely to cause damage of any type to any structure |
| 3 | 0.08 | Distinctly perceptible to strongly perceptible | Recommended upper level of the vibration to which ruins and ancient monuments should be subjected |


| Table 3.13-1: Construction Vibration Threshold Criteria | | | |
|--|--|---|--|
| Category | Continuous PPV at affected building (inch/sec) | Human Reaction | Effect on Buildings |
| 4 | 0.1 | Strongly perceptible | Threshold at which there is a risk of cosmetic damage to fragile buildings with no risk of cosmetic damage to most buildings |
| 5 | 0.25 | Strongly perceptible to severe | Threshold at which there is a risk of damage to historic and some old buildings |
| 6 | 0.3 | Strongly perceptible to severe | Threshold at which there is a risk of damage to older residential structures |
| 7 | 0.5 | Severe - Vibrations considered unpleasant | Threshold at which there is a risk of damage to new residential and modern commercial/industrial structures |
| Source: Transportation and Construction Vibration Guidance Manual, California Department of Transportation, September 2013. | | | |

City of San José

Envision San José 2040 General Plan

The 2040 General Plan includes noise compatibility guidelines for various land uses. For reference, these guidelines are provided in Figure 3.13-1 below.

| Table 3.13-2: 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 ¹ | | | | | | |
| 2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds | | | | | | |
| 3. Schools, Libraries, Museums, Meeting Halls, and Churches | | | | | | |
| 4. Office Buildings, Business Commercial, and Professional Offices | | | | | | |
| 5. Sports Arena, Outdoor Spectator Sports | | | | | | |
| 6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters | | | | | | |
| ¹ Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required. Normally Acceptable: <div style="display: inline-block; width: 20px; height: 20px; border: 1px solid black; background-color: white; margin-right: 5px;"></div> 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: <div style="display: inline-block; width: 20px; height: 20px; border: 1px solid black; background-color: gray; margin-right: 5px;"></div> Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design. | | | | | | |

| Table 3.13-2: Land Use Compatibility Guidelines for Community Noise in San José | | | | | | |
|--|--------------------------------|----|----|----|----|----|
| Land Use Category | Exterior DNL Value in Decibels | | | | | |
| | 55 | 60 | 65 | 70 | 75 | 80 |
| 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. | | | | | | |

In addition, the following policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise and are applicable to the project.

| General Plan Policies – Noise and Vibration | |
|---|--|
| EC-1.1 | <p>Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:</p> <p><u>Interior Noise Levels</u></p> <ul style="list-style-type: none"> The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected 2040 General Plan traffic volumes to ensure land use compatibility and 2040 General Plan consistency over the life of this plan. <p><u>Exterior Noise Levels</u></p> <ul style="list-style-type: none"> The City’s acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the Norman Y. Mineta San José International Airport, the Downtown Core Area, and along major roadways. For the remaining areas of the City, the following standards apply: <ul style="list-style-type: none"> For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. There will be common use areas available to all residents that meet the 60 dBA exterior standard. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as back yards. |

| General Plan Policies – Noise and Vibration | |
|--|---|
| EC-1.2 | <p>Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:</p> <ul style="list-style-type: none"> • 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. |
| EC-1.3 | <p>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.</p> |
| EC-1.7 | <p>Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:</p> <ul style="list-style-type: none"> • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. <p>For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.</p> |
| EC-1.11 | <p>Require safe and compatible land uses within the Norman Y. Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.</p> |
| EC-2.3 | <p>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 inch/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 inch/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.</p> |

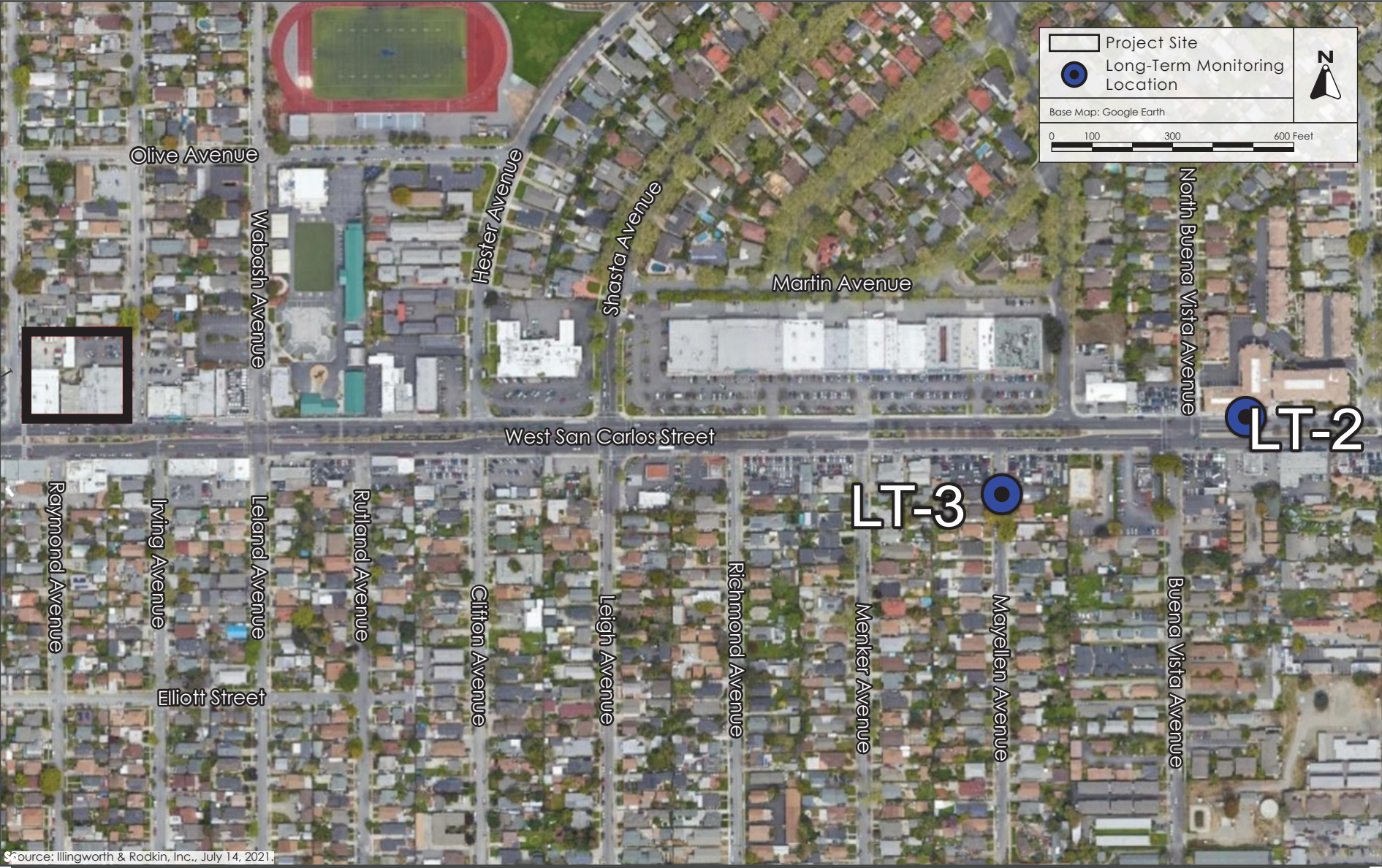
3.13.1.3 *Existing Conditions*

The existing noise environment at the project site results primarily from vehicular traffic along West San Carlos Street. At the time the analysis was prepared, traffic volumes along the surrounding roadways were substantially lower and not representative of typical conditions due to the shelter-in-place restrictions implemented by the State. Therefore, a noise monitoring survey was not prepared to establish existing ambient noise levels. To quantify the project baseline, existing noise data from previous projects were used to establish existing noise conditions. In addition, the Federal Highway Administration's (FHWA) Traffic Noise Model was used to calculate existing noise conditions specific to the project area.

In 2017, a noise level of 65 dBA DNL was estimated at a distance of approximately 148 feet from the West San Carlos Street centerline.⁶³ This measurement is identified as LT-3 and is located 0.4 miles east of the project site at Menker Avenue and West San Carlos Street. In 2019, a noise level of 72 dBA DNL was estimated at a distance of approximately 45 feet from the centerline of West San Carlos Street. This measurement is identified as LT-2 and is located 0.5 miles east of the project site in front of 1535 West San Carlos Street.

Based on the Traffic Noise Model, the existing noise level at a distance of 50 feet from the centerline of West San Carlos Street is estimated to be 71 dBA DNL. These modeled results are within one dBA of noise levels measured in the previous studies along West San Carlos Street and are representative of the existing noise environment at receptors located to the south, east, and west of the project site (with a similar setback distance from West San Carlos Street). With the acoustic shielding from the existing buildings on-site, existing noise levels would be approximately 57 dBA DNL at the shared property line with the residential land uses to the north. Refer to Figure 3.13-1 for the noise monitoring locations.

⁶³ Illingworth & Rodkin, Inc. *1881 West San Carlos Street Condominium and Senior Care Noise and Vibration Assessment*. July 14, 2021.



NOISE MONITORING LOCATIONS

FIGURE 3.13-1

3.13.2 Impact Discussion

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

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

Appendix G of the CEQA Guidelines states that a project would normally be considered to result in significant noise impacts if noise levels conflict with adopted environmental standards or plans or if noise generated by the project would substantially increase existing noise levels at sensitive receivers on a permanent or temporary basis. Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL (except in the environs of the Norman Y. Mineta San José International Airport and the Downtown) and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan Policy EC-1.1).

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

City of San José Standards

The City of San José relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by 5.0 dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

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

Construction Vibration

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

3.13.2.1 *Project Impacts*

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

Project-Generated Traffic Noise Impacts

A significant impact would result if traffic generated by the project would substantially increase noise levels at sensitive receptors in the vicinity. A substantial increase would occur if: a) the noise level increase is 5.0 dBA DNL or greater, with a future noise level of less than 60 dBA DNL, or b) the noise level increase is 3.0 dBA DNL or greater, with a future noise level of 60 dBA DNL or greater.

To determine the effect of project-generated traffic on the nearby residences, the peak hour turning movements for existing and project traffic conditions at five intersections along West San Carlos Street were added to existing traffic volumes to calculate existing plus project traffic.⁶⁴ When compared to the existing traffic volumes, a noise level increase of up to 1.0 dBA DNL was calculated along every roadway segment. Therefore, implementation of the proposed project would not result in a permanent noise increase of 3.0 dBA DNL or more.

Mechanical Equipment

The project would include utility rooms and a boiler room within the underground parking garage. Additionally, an electrical room is proposed on the ground floor. No specific details for the equipment are available.

⁶⁴ Traffic volumes provided by Hexagon Transportation Consultants, Inc.

Heating, ventilation, and air conditioning (HVAC) units for residential and commercial projects are typically located on the rooftop. Assuming the HVAC units would be located near the center of each building, the nearest shared property line would be approximately 50 feet. At this distance (assuming partial shielding from the rooftop), the noise levels would not exceed the 55 dBA DNL threshold at surrounding land uses.

In addition, an emergency diesel generator is proposed on the ground floor of the senior care component. Details about the generator were unavailable at the time of the analysis was completed, so the analysis assumes the generator would have a capacity up to 1,000 kW. Generators of this size typically generate noise levels up to 89 dBA at a distance of 50 feet. With the inclusion of sufficient noise control features, noise levels could be reduced to 65 dBA at a distance of 50 feet from the generator room. Emergency generators are typically tested monthly for one hour between 7:00 AM and 10:00 PM. Furthermore, it is assumed that the City's thresholds would not apply during emergency conditions when the generators may run continuously during daytime and nighttime hours. During the testing periods, the threshold would apply.

The proposed generator room would be approximately 65 feet from the northern property line shared with existing residential land uses. At this distance, noise levels from the generator would be 67 dBA L_{eq} without noise control features and 43 dBA L_{eq} with noise control features (assuming a conservative 20 dBA reduction due to the building façade and an eight-foot concrete masonry unit (CMU) fence shown in the site plan along the northern property line). The estimated day-night average noise level at the nearest residential property line would be up to 29 dBA DNL with noise control features and up to 53 dBA DNL without noise control features. The proposed mechanical equipment would not exceed the City's threshold.

Nevertheless, the proposed project would be required to implement the following Standard Permit Condition to ensure the project maintains a noise level of 55 dBA or less at the shared property lines of nearby noise-sensitive land uses.

Standard Permit Condition:

- A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit.

With implementation of the above Standard Permit Condition, the project would have a less than significant operational noise impact from mechanical equipment.

Truck Loading and Unloading

Truck loading and unloading activities would occur near the southeast corner of the building along West San Carlos Street. Sensitive receptors to the north would be shielded from truck deliveries by

the proposed building. Assuming all deliveries would occur once per day, truck loading and unloading activities would not generate noise levels exceeding the City's 55 dBA DNL threshold.

Construction Noise

The nearest sensitive receptors are located approximately five feet north of the site. At these residences, the existing ambient noise levels would be approximately 57 to 62 dBA DNL. Once the existing buildings on-site are demolished, the residences would no longer be shielded from traffic along West San Carlos Street and would be exposed to noise levels up to 61 dBA DNL. As the proposed buildings are constructed, the residences to the north would be shielded from the traffic and would be exposed to noise levels as low as 57 dBA DNL. Existing commercial buildings along West San Carlos Street to the south, east, and west of the project site would be exposed to similar noise levels as were modeled at the project site with daytime noise levels would ranging from 64 to 72 dBA L_{eq} .

The project would be constructed over a period of 21 months. Construction activities associated with the project would include demolition, site preparation, grading/excavation, trenching/foundation, building exterior, building interior/architectural coating, and paving. Pile driving is not proposed. Construction-generated noise levels drop off at a rate of about six dBA per doubling of the distance between the source and receptor. For each phase, the worst-case hourly average noise level was estimated at the property line of each surrounding land use. Table 3.13-3 below lists the equipment that would be used during construction and the estimated construction noise levels at nearby land uses from the center of the construction site.

| Table 3.13-3: Estimated Construction Noise Levels at Nearby Land Uses | | | | |
|--|--|---|-----------------------------------|------------------------------------|
| Phase of Construction | Calculated Hourly Average Noise Levels, L_{eq} (dBA) | | | |
| | North Residential (105 feet) | East Residential and Commercial (175 feet) | West Commercial (175 feet) | South Commercial (200 feet) |
| Demolition | 70 | 66 | 66 | 65 |
| Site Preparation | 73 | 68 | 68 | 67 |
| Grading/Excavation | 76 | 72 | 72 | 71 |
| Trenching/Foundation | 72 | 68 | 68 | 66 |
| Building Exterior | 71 | 67 | 67 | 66 |
| Building Interior/Architectural Coating | 67 | 63 | 63 | 62 |
| Paving | 70 | 66 | 66 | 65 |

As shown in the table above, ambient noise levels at the nearby land uses would be exceeded by 5.0 dBA L_{eq} during different phases of construction. The project site is located within 500 feet of existing residences and would last for a period of more than 12 months which would result in a significant impact (per General Plan Policy EC-1.7).

Impact NOI-1: Construction noise would exceed ambient levels by 5.0 dBA or more for a period of more than one year.

Mitigation Measure

MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. In addition, the noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any grading or demolition permits.

As part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Limit construction hours to between 7:00 AM and 7:00 PM, 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 use.
- Use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. Equip all internal combustion engines with adequate mufflers and maintain all equipment in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- Prohibit all unnecessary idling of internal combustion engines.
- Locate staging areas and stationary noise-generating equipment as far as possible from sensitive receptors (a minimum of 200 feet, where feasible).
- Notify the surrounding neighborhood within 500 feet early and frequently of the construction activities.
- Designate a "noise disturbance coordinator" to respond to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., beginning work too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct

the problem. Conspicuously post a telephone number at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

- Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists.
- 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 five 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. Typically, a minimum height of eight feet would be adequate.
- Stationary noise-generating equipment that must be located near receptors shall use adequate muffling (with enclosures where feasible and appropriate). 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.
- Substitute graders for bulldozers, where feasible, during final grading. Use wheeled heavy equipment, where feasible. Wheeled heavy equipment are quieter than track equipment.
- Substitute nail guns for manual hammering, where feasible.
- Substitute electrically powered tools for noisier pneumatic tools, where feasible.

With implementation of the identified Mitigation Measure NOI-1.1, the proposed project would have a less than significant construction noise impact.

With implementation of the Standard Permit Condition included above and Mitigation Measure NOI-1.1, the project would have a less than significant impact from the increase in ambient noise levels in the project area from construction. **(Less than Significant Impact with Mitigation Incorporated)**

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

Project construction could generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used. Per General Plan Policy EC-2.3, a continuous vibration limit of 0.08 inch/sec peak particle velocity (PPV) will be used to minimize the potential for cosmetic damage to sensitive historic structures, and a continuous vibration limit of 0.2 inch/sec PPV will be used to minimize damage at buildings of normal conventional construction. Within 500 feet, there are several structures (e.g., 24 Brooklyn Avenue, 36 Brooklyn Avenue, 12 Boston Avenue, 19

Boston Avenue, 30 Boston Avenue, 57 Boston Avenue, 47 Wabash Avenue, and 39 Wabash Avenue) listed under the City's HRI. Typical vibration levels that could be expected from construction equipment at 25 feet is summarized below in Table 3.13-4.

| Table 3.13-4: Typical Vibration Levels from Construction Equipment at 25 Feet | | | | | | | | | |
|---|---------|--------------------------------|---|--|--|---|--|---|---|
| Equipment | | PPV at 25 feet (in/sec) | Minimum Distance to Meet 0.2 in/sec PPV (feet) | | Minimum Distance to Meet 0.08 in/sec PPV (feet) | | | | |
| | | | Commercial Structure East (50 feet) | Commercial Structures South and West (100 feet) | Residential Structures North (5 feet) | Residential Structure East (55 feet) | Residential Structure North (90 feet) | Residential Structure Northeast (130 feet) | Residential Structure North (180 feet) |
| Clam Shovel Drop | | 0.202 | 0.094 | 0.044 | 1.186 | 0.085 | 0.049 | 0.033 | 0.023 |
| Hydromill | in soil | 0.008 | 0.004 | 0.002 | 0.047 | 0.003 | 0.002 | 0.001 | 0.001 |
| | in rock | 0.017 | 0.008 | 0.004 | 0.100 | 0.007 | 0.004 | 0.003 | 0.002 |
| Vibratory Roller | | 0.21 | 0.098 | 0.046 | 1.233 | 0.088 | 0.051 | 0.034 | 0.024 |
| Hoe Ram | | 0.089 | 0.042 | 0.019 | 0.523 | 0.037 | 0.022 | 0.015 | 0.010 |
| Large Bulldozer | | 0.089 | 0.042 | 0.019 | 0.523 | 0.037 | 0.022 | 0.015 | 0.010 |
| Caisson Drilling | | 0.089 | 0.042 | 0.019 | 0.523 | 0.037 | 0.022 | 0.015 | 0.010 |
| Loaded Trucks | | 0.076 | 0.035 | 0.017 | 0.446 | 0.032 | 0.019 | 0.012 | 0.009 |
| Jackhammer | | 0.035 | 0.016 | 0.008 | 0.206 | 0.015 | 0.009 | 0.006 | 0.004 |
| Small Bulldozer | | 0.003 | 0.001 | 0.001 | 0.018 | 0.001 | 0.001 | 0.000 | 0.000 |
| Source: Transit Noise and Vibration Impact Assessment Manual, Federal Transit Administration, Office of Planning and Environment, U.S. Department of Transportation, September 2018, as modified by Illingworth & Rodkin, Inc., February 2021. | | | | | | | | | |

As shown in the table above, all commercial buildings would be below the 0.2 in/sec PPV threshold. The nearest historic buildings are located at 24 Brooklyn Avenue and 19 Boston Avenue, approximately five feet from the shared property line to the north. At a distance of five feet, vibration levels would be up to 1.233 in/sec PPV. The historic structure at 12 Boston Avenue would be as close as 55 feet from the shared property line to the east. At this distance, vibration levels would be up to 0.088 in/sec PPV. Historic buildings that are located further to the north and east would be exposed to vibration levels below 0.08 in/sec PPV. The City's threshold of 0.08 in/sec PPV for historical buildings would be exceeded at the nearest residences to the north and east of the project site when construction activities occur near the property lines.

Impact NOI-2: Construction vibration levels would exceed the 0.08 in/sec peak particle velocity (PPV) threshold for nearby historical buildings within 55 feet of the project site.

Mitigation Measure

MM NOI-2.1: The project applicant shall implement a Construction Vibration Monitoring Plan (Plan) to document conditions of 24 Brooklyn Avenue, 19 Boston Avenue, and 12 Boston Avenue 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 plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to issuance of a demolition, grading, or building permit, whichever occurs earliest. The Plan shall include, but not be limited to, the following measures:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the Director of Planning, Building or Code Enforcement or the Director's designee 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 for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site at least 30 feet from vibration-sensitive receptors.
- Use the smallest equipment available to complete the task and minimize vibration levels as low as feasible.
- Avoid using vibratory rollers and tampers near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy objects or materials.
- Identify sensitivity to ground-borne vibration of the property. A vibration survey (generally described below) would need to be performed.
 - Perform a photo survey, elevation survey, and crack monitoring survey for each historic structure within 60 feet of construction activities. Surveys shall be performed and documented prior to any construction activity, in regular intervals during construction, and after project completion. The surveys shall include internal and external crack monitoring in the structure, settlement, and distress, and shall document the condition of the foundation, walls and other structural elements in the interior and exterior of the structure.
 - 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. If vibration levels approach limits, construction shall be suspended and contingency measures shall be implemented to lower vibration or secure affected structures.
 - 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-survey on the structure where either monitoring has indicated high levels or complaints of damage. Make appropriate repairs in accordance with the Secretary of the Interior’s Standards where damage has occurred as a result of construction activities.
- The results of all vibration monitoring shall be summarized and submitted in a report shortly after substantial completion of each phase identified in the project schedule. The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. An explanation of all events that exceeded vibration limits shall be included together with proper documentation supporting any such claims.

With implementation of Mitigation Measure NOI-2.1, the project would have a less than significant construction vibration impact. **(Less Than Significant Impact)**

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

The Norman Y. Mineta San José International Airport and Reid-Hillview Airport are located approximately 1.8 miles northeast and 5.7 miles east of the project site, respectively. Per the Norman Y. Mineta San José International Airport Integrated FEIR, the project site is located outside of the 2037 60 dBA CNEL noise contour and future exterior noise levels would be at or below the 65 dBA CNEL/DNL for aircraft.⁶⁵ The proposed project would not expose people residing or working in the project area to excessive noise levels. **(Less than Significant Impact)**

3.13.2.2 Cumulative Impacts

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

The project’s noise and vibration impacts are localized; therefore, the geographic study area is the project site and surrounding area (within 1,000 feet of the project site). There are no pending projects located within 1,000 feet of the site; therefore, the project would not result in a cumulatively considerable contribution to a cumulative noise and vibration impact. **(Less than Significant Cumulative Impact)**

3.13.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*BIA v. BAAQMD*), effects of the environment on the project are not considered CEQA

⁶⁵ City of San José. Norman Y. Mineta San José International Airport Integrated FEIR. April 2020.

impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing noise conditions affecting a proposed project.

The future noise environment at the project site would continue to result primarily from vehicular traffic along West San Carlos Street. Existing and future project traffic conditions were used to estimate future traffic noise increases in the project vicinity. The background plus project traffic conditions was used to estimate future peak hour noise levels which represents the worst-case scenario. Based on these results, future traffic noise levels were estimated to increase by one dBA DNL in the project vicinity. The future noise environment along West San Carlos Street would be up to 72 dBA DNL at the setback of the building.

Exterior Noise Levels

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

A ground floor courtyard is proposed at the center of the site between the condominiums and senior care facility. The courtyard would be shielded from West San Carlos Street by the proposed condominium component. Due to the setback distance from West San Carlos Street and the shielding provided by the proposed building, the courtyard would have future exterior noise levels below 60 dBA DNL at the center of the courtyard.

Another residential outdoor use area, approximately 2,176 square feet, is proposed at the southwestern corner of the roof of the condominium component. The center of the rooftop common area would be approximately 65 feet from the centerline of West San Carlos Street. The elevation of the building would provide partial shielding for the traffic noise. Additionally, the site plan shows a stucco barrier wall (a minimum of six feet tall) along the edge of the roof, which would also provide shielding for the outdoor area. At the center of the rooftop residential use area, the future exterior noise levels would be below 60 dBA DNL, with or without the six-foot barrier wall located at the edge of the roof.

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

Interior Noise Levels

Residential Use

The City's interior noise standard for residential uses is 45 dBA DNL. 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.

The proposed residential and senior care units located along the southern building façade would be setback from the West San Carlos Street centerline by approximately 50 feet. At this distance, the units would be exposed to future exterior noise levels up to 72 dBA DNL. Assuming standard construction materials with windows partially open for ventilation, the interior noise levels for the proposed project would be up to 57 dBA DNL.

The eastern and western building façades would be set back approximately 20 feet from the Boston Avenue and Brooklyn Avenue centerline, respectively. Residential and senior care units along these façades would be exposed to future exterior noise levels ranging from 60 dBA DNL at the northern end of the building to 72 dBA DNL at the southern end. Future interior noise levels within units along these façades would range from 45 to 57 dBA DNL (with use of standard construction materials and windows partially open for ventilation).

The northern building façade would be shielded from West San Carlos Street. Senior care units along this façade would be exposed to future exterior noise levels ranging from 57 to 62 dBA DNL, depending on the setback distance from Boston Avenue and Brooklyn Avenue. Assuming standard construction materials with windows partially open for ventilation, future interior noise levels within units along this façade would range from 39 to 45 dBA DNL.

This would exceed the 45 dBA DNL standard for interior noise. Consistent with General Plan Policy EC-1.1, the proposed project would be required, as a Condition of Project Approval, to implement the measures listed below.

Commercial Use

The CALGreen Code performance method requires that interior noise levels within non-residential land uses be maintained at 50 dBA $L_{eq}(1-hr)$ or less during hours of operation. The proposed ground floor retail would be located along the southern building façade and would be set back approximately 50 feet from the West San Carlos Street centerline. The proposed retail would be exposed to future exterior noise levels ranging from 69 dBA $L_{eq}(1-hr)$ to 74 dBA $L_{eq}(1-hr)$ during daytime hours.

Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces. The inclusion of adequate forced-air mechanical ventilation systems is normally required so windows may be kept closed at the occupant's discretion and would provide an additional five dBA reduction. The standard construction materials in combination with forced-air mechanical ventilation would not exceed the daytime threshold of 50 dBA $L_{eq}(1-hr)$.

Conditions of Project Approval:

- 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.

- Windows and doors shall have a minimum rating of 34 STC to meet the interior noise threshold of 45 dBA DNL for all residential units along the southern building façade.
- Windows and doors shall have a minimum rating of 34 STC to meet the interior noise threshold of 45 dBA DNL for all units along the eastern and western building façades, within approximately 120 feet of the centerline of West San Carlos Street.
- Prior to the issuance of a building permit, a qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels from all exterior sources during the design phase pursuant to requirements set forth in the State building code. The study shall establish appropriate criteria for noise levels inside the commercial spaces affected by environmental noise. The study shall review the final building plans and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower. Treatments could 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. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans which incorporate the identified treatments, prior to issuance of a building permit.

With implementation of the above Conditions of Project Approval, the project would meet the City's interior noise standards consistent with General Plan Policy EC-1.1.

3.14 POPULATION AND HOUSING

3.14.1 Environmental Setting

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.⁶⁶ The City of San José Housing Element and related land use policies were last updated in January 2015.

Regional and City of San José

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 residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

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, 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).

3.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 1,029,782 in January 2021 with an average of 3.14 persons per household.⁶⁷ As of January 2021, the City had approximately 337,442 housing units⁶⁸ and, by 2040, the City's population is projected to reach 1,334,100.⁶⁹

⁶⁶ California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements." Accessed August 30, 2021. <http://hcd.ca.gov/community-development/housing-element/index.shtml>.

⁶⁷ State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020." Accessed August 30, 2021. <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>.

⁶⁸ Ibid.

⁶⁹ City of San José. "Population." Accessed August 30, 2021. <https://www.sanjoseca.gov/home/showpublisheddocument/23689/636689367691700000>.

The City of San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident), but this trend is projected to reverse with full build out under the General Plan.

3.14.1.3 *Impact Discussion*

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

- a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
- b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

3.14.1.4 *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)?**
-

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 (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The proposed condominium component would consist of 61 dwelling units with 6,000 square feet of ground floor retail and the senior care component would consist of up to 246 beds. The proposed project would increase the resident population by up to 438 new residents⁷⁰ and the employee population by up to 24 employees (for the retail space).⁷¹ The proposed project is part of planned growth in the City and would not result in unplanned residential growth. **(Less than Significant Impact)**

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

The proposed project would not displace existing housing. Therefore, the proposed project would not require the construction of replacement housing due to displacement of existing people or housing. **(Less than Significant Impact)**

⁷⁰ The 246 senior care beds would generate up to 246 residents. The average number of residents (for the condominium is calculated from 3.14 persons per household from the State of California Department of Finance.

⁷¹ Retail employee based on rate of one employee per 250 square feet. Source: Strategic Economics, Inc. San José Market Overview and Employment Land Use Analysis. January 2016.

3.14.1.5 *Cumulative Impacts*

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

The geographic area for cumulative population and housing impacts is the City of San José. The project would intensify the use of the site and generate a total of 438 new residents and 24 new employees in the City. The project does not propose to extend roads or other infrastructure to previously undeveloped areas and would not remove obstacles to population growth. Additionally, the proposed project is consistent with planned growth from the General Plan. For these reasons, the project would not have a cumulatively considerable contribution to a significant cumulative unplanned population growth in the area. **(Less than Significant Cumulative Impact)**

3.15 PUBLIC SERVICES

Public comments received during the NOP scoping process pertained to the addition of school-aged children to nearby schools as a result of the project and police protection/response times. The generation of school-aged children and police protection services is addressed in Section 3.15.2.1 below.

3.15.1 Environmental Setting

3.15.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to the issuance of a building permit. Government Code Sections 65995 through 65998 set forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of the planning, use, or development of real property)" (Section 65996[a]). The legislation states that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA (Section 65996[b]).

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

City of San José

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. These ordinances are intended to reduce the extent to which new development would exacerbate the existing shortfall of park and recreational facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects under 51 units, the City can only accept a fee in-lieu of land dedication. Affordable housing including low, very-low, and

extremely-low income units is subject to the PDO and PIO at a rate of fifty percent of the applicable parkland fee.

Envision San José 2040 General Plan

The following policies in the City’s General Plan have been adopted for the purpose of reducing or avoiding impacts related to public facilities and services and are applicable to the project.

| General Plan Policies - Public Facilities and Services | |
|---|--|
| ES-3.1 | <p>Provide rapid and timely Level of Service response time to all emergencies:</p> <ol style="list-style-type: none"> 1. For police protection, achieve 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, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. 3. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models. 4. Measure service delivery to identify the degree to which services are meeting the needs of San José’s community. 5. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city. |
| ES-3.3 | <p>Locate police and fire service facilities so that essential services can most efficiently be provided and level of service goals met. Ensure that the development of police and fire facilities and delivery of services keeps pace with development and growth of the city.</p> |
| ES-3.4 | <p>Construct and maintain architecturally attractive, durable, resource-efficient, environmentally sustainable and healthful police and fire facilities to minimize operating costs, foster community engagement, and express the significant civic functions that these facilities provide for the San José community in their built form. Maintain City programs that encourage civic leadership in green building standards for all municipal facilities.</p> |
| ES-3.6 | <p>Work with local, State, and Federal public safety agencies to promote regional cooperation in the delivery of services. Maintain mutual aid agreements with surrounding jurisdictions for emergency response.</p> |
| ES-3.8 | <p>Use the Land Use/Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.</p> |
| ES-3.9 | <p>Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.</p> |
| ES-3.10 | <p>Incorporate universal design measures in new construction, and retrofit existing development to include design measures and equipment that support public safety for people with diverse abilities and needs. Work in partnership with appropriate agencies to incorporate technology in public and private development to increase public and personal safety.</p> |

| General Plan Policies - Public Facilities and Services | |
|--|---|
| 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. |

3.15.1.2 Existing Conditions

Fire Service

Fire protection services for the project site are provided by the City of San José Fire Department (SJFD). The SJFD consists of 34 stations distributed throughout the City. The closest fire station to the project site is Station 4, located at 710 Leigh Avenue, which is approximately 0.7 miles southeast of the project site.

For fire protection services, the General Plan identifies a total response time goal of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.

Police Service

Police protection services are provided by the City of San José Police Department (SJPD). The police headquarters is located at 201 West Mission Street, approximately 2.3 miles northeast of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 nonemergency calls.

Schools

The project site is located within the San José Unified School District (SJUSD). The project site is served by the following schools listed in Table 3.15-1.

| Table 3.15-1: Local Schools | | |
|-----------------------------|---------------------|--------------------|
| School | Location | Distance from Site |
| Luther Burbank School (K-8) | Four Wabash Avenue | 350 feet east |
| Del Mar High School | 1224 Del Mar Avenue | 1.3 miles south |

Parks

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains approximately 197 neighborhood-serving parks and nine regional parks.⁷² The nearest public parks are Hester Park, located approximately 0.50 miles northwest, and Buena Vista Park, located approximately 0.42 miles southeast.

⁷² City of San José. *Fast Facts*. October 8, 2019.

Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 23 branch libraries. The nearest library is Rose Garden Branch, approximately 0.56 mile northeast of the project site.

3.15.2 Impact Discussion

For the purpose of determining the significance of the project's impact on public services, 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?
- b) Police protection?
- c) Schools?
- d) Parks?
- e) Other public facilities?

3.15.2.1 *Project Impacts*

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

The proposed project would increase density on-site which could increase the demand for fire protection services on-site compared to existing conditions. The project site 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 is consistent with the planned growth in the General Plan and would not, by itself, preclude the SJFD from meeting their service goals or require the construction of new or expanded fire facilities. In addition, the proposed project would be constructed in accordance with current building codes. Therefore, the proposed project would not have a significant physical impact due to the needed for new or expanded fire department facilities. **(Less than Significant Impact)**

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

The General Plan FEIR (as amended) concluded that build out of the General Plan could require the need for expansion of existing police facilities or the location of new police facilities, which would

require supplemental environmental review but are not anticipated to result in significant, adverse environmental impacts. As mentioned above, implementation of the project would result in up to 438 new residents⁷³ and up to 24 employees⁷⁴ on-site which would increase demand on police protection services compared to existing conditions. The project site has been accounted for as part of the planned growth for the City and, by itself, would not require the construction of new or expanded police facilities or preclude the SJPd from meeting their service goals. In addition, the 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. Therefore, the proposed project would not have a significant physical impact due to the needed for new or expanded police department facilities. **(Less than Significant Impact)**

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

Planned growth under the General Plan would generate an additional 11,079 students in the SJUSD. Based on the SJUSD student generation rates, multi-family residential development generates approximately 0.139 elementary students, 0.059 middle school students, and 0.074 high school students per unit.⁷⁵ Therefore, it is estimated that the project would generate a total of nine elementary students, four middle school students, and five high school students. The addition of up to 18 students in the SJUSD would comprise a small percentage of the total student population. The project is part of the planned growth in the City and would not increase students in the SJUSD beyond what was anticipated from full build out of the General Plan.

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with State law. The school impact fees and the school districts' methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment. For these reasons, the proposed project would have a less than significant impact on school services and would not, by itself, result in an adverse physical impact to new or physically altered governmental facilities or result in the need for new or physically altered governmental facilities. **(Less than Significant Impact)**

⁷³ The 246 senior care beds would generate up to 246 residents. The average number of residents (for the condominium is calculated from 3.14 persons per household from the State of California Department of Finance.

⁷⁴ Retail employee based on rate of one employee per 250 square feet. Source: Strategic Economics, Inc. San José Market Overview and Employment Land Use Analysis. January 2016.

⁷⁵ Odell Planning and Research, Inc. Development Fee Justification Study Prepared for the San José Unified School District. April 2014

d) 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 parks?

The City of San José has a PDO/PIO which requires new housing projects to provide three acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities onsite, and/or pay an in-lieu fee. The proposed project would introduce new residents and employees to the project site who would use recreation facilities in nearby areas. The project proposes a plaza along West San Carlos Street, a central courtyard, and a rooftop common area and amenity space which could reduce use of existing park and recreational facilities nearby. The project would be required to pay the City's PDO/PIO fees associated with new development.

Implementation of the project would not result in significant impacts to park and recreational facilities in San José. **(Less than Significant Impact)**

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

The City of San José has been expanding and constructing new library facilities over the last decade to meet the needs of current residents. The General Plan policies maintain the City's current policy of providing at least 0.59 square feet of library space per capita. Development and redevelopment allowed under the General Plan would increase the City's residential population to 1,313,811. The City's existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the proposed General Plan by 2035.

The proposed project is part of planned growth in the City and would not require the construction of new library facilities. Therefore, implementation of the project would not result in significant impacts to library facilities in San José. **(Less than Significant Impact)**

3.15.2.2 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant cumulative public services impact?

The geographic area for cumulative public services impacts is the City San José. Development in the project area would increase demand on fire and police protection services, schools, and recreational facilities. All cumulative projects would be subject to State, county, and City policies and regulations associated with public services within San José (e.g., payment of park and school fees). The project is consistent with planned growth in the City and would comply with the Standard Permit Conditions identified above. Therefore, the proposed project would not result in a cumulatively considerable contribution to a public services impact. **(Less than Significant Cumulative Impact)**

3.16 RECREATION

3.16.1 Environmental Setting

3.16.1.1 *Regulatory Framework*

State

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

City of San José

Parkland Dedication Ordinance and the Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects over 50 units, it is the City's decision as to whether the project will dedicate land for a new public park site or accept a fee in-lieu of land dedication. Deed-restricted affordable housing projects that meet the City's affordability criteria are subject to the PDO and PIO and receive a 50 percent credit toward the parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to recreation and are applicable to the project.

| General Plan Policies - Recreation | |
|---|---|
| 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. |
| 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. |
| PR-1.3 | Provide 500 square feet per 1,000 population of community center space. |

| General Plan Policies - Recreation | |
|---|--|
| 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. |
| 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. |
| PR-2.6 | Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or include one or more of these elements in its project design. |
| PR-3.2 | Provide access to an existing or future neighborhood park, a community park, recreational school grounds, a regional park, open space lands, and/or a major City trail within a 1/3 mile radius of all San José residents by either acquiring lands within 1/3 mile or providing safe connections to existing recreation facilities outside of the 1/3 mile radius. This is consistent with the United Nation's Urban Environmental Accords, as adopted by the City for recreation open space. |

3.16.1.2 *Existing Conditions*

The City's Department of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City operates and maintains approximately 197 neighborhood-serving parks and nine regional parks.⁷⁶ The nearest public parks are Hester Park, located approximately 0.50 mile northwest, and Buena Vista Park, located approximately 0.42 mile southeast.

3.16.2 Impact Discussion

For the purpose of determining the significance of the project's impact on recreation:

- 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?
- 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?

3.16.2.1 *Project Impacts*

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

⁷⁶ City of San José. *Fast Facts*. October 8, 2019.

As mentioned previously, the project would result in an increase in the City population which may increase demand on recreational facilities. The project proposes a central open courtyard and a plaza located southwest of the site and a rooftop common area and amenity space which could help reduce the use of existing recreational facilities in the area by future residents, employees, and visitors of the site.

The project would be required to pay the applicable PDO/PIO fees. The City's PDO would be satisfied through a combination of several means including: dedication of land; payment of a fee (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities. Therefore, the project would not result in a substantial physical deterioration of recreational facilities in the area. **(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 does not include the expansion or construction of additional recreational facilities. As a result, implementation of the project would not result in an adverse physical effect on the environment. **(Less than Significant Impact)**

3.16.2.2 *Cumulative Impacts*

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

The geographic area for cumulative recreation impacts is the City of San José. Development in the area that would generate new residents is required to comply with the City's requirements for parkland dedication, provisions of public space, and/or payment of in-lieu fees to minimize impacts of new residents on existing park and recreation facilities. The project would generate new residences and would construct new parkland and other recreational amenities on-site and pay the applicable PDO/PIO fees. For this reason, the project would not result in a considerable contribution to a significant cumulative recreation impact. **(Less than Significant Cumulative Impact)**

3.17 TRANSPORTATION

The following analysis is based on a Transportation Analysis and TDM plan completed by Hexagon Transportation Consultants, Inc. in August 2021 and June 2022, respectively. A copy of the report and TDM plan is included in Appendix G of this document. Public comments received during the NOP scoping process pertained to traffic congestion in the area and parking. The evaluation of project CEQA impacts on the transportation system is focused on VMT. Non-CEQA transportation issues (e.g., local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues, parking, and recommend needed transportation improvements) are discussed further under Section 3.17.3. An increase in trip volumes on any roadway is not, in and of itself, a transportation impact. Additionally, refer to Appendix G of this document for the queuing analysis.

In accordance with the CEQA Guidelines, the project analysis is required to address the net effect of a proposed project. Therefore, there is no nexus to resolve existing transportation issues. With regard to NOP comments on traffic safety, operation of non-automotive modes of transportation and roadway hazards resulting from project design are addressed in Section 3.17.2.1.

3.17.1.1 *Environmental Setting*

State

Regional Transportation Plan

MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes a Regional Transportation Plan to guide regional transportation investment for revenues from federal, State, regional and local sources through 2040.

Senate Bill 743

SB 743 establishes criteria for determining the significance of transportation impacts using a VMT metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires analysis of VMT in determining the significance of transportation impacts. Local jurisdictions were required by Governor's Office of Planning and Research (OPR) to implement a VMT policy by July 1, 2020.

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant. Notably, projects located within 0.50 mile of transit should be considered to have a less than significant transportation impact based on OPR guidance.

Regional

Congestion Management Program

VTA oversees the Congestion Management Program (CMP), which is aimed at reducing regional traffic congestion. The relevant State legislation requires that urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management plan, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP-designated intersections.

City of San José

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, "Transportation Analysis Policy" (2018), the City of San José uses VMT as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office or research and development) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional VMT per employee or the existing average citywide VMT per capita, respectively. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1. Policy 5-1 does, however, negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation and are applicable to the project.

| General Plan Policies - Transportation | |
|---|--|
| 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). |
| TR-1.2 | Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects. |

| General Plan Policies - Transportation | | | |
|---|---|------------------------------------|------------------|
| TR-1.3 | Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle. The 2040 commute mode split targets for San José residents and workers are presented in the following table: | | |
| | Commute Mode Split Targets for 2040 | | |
| | Mode | Commute Trips to and From San José | |
| | | 2008 | 2040 Goal |
| | Drive alone | 77.8% | No more than 40% |
| | Carpool | 9.2% | At least 10% |
| | Transit | 4.1% | At least 20% |
| | Bicycle | 1.2% | At least 15% |
| | Walk | 1.8% | At least 15% |
| | Other means (including work at home) | 5.8% | See Note 1 |
| Source: 2008 data from American Community Survey (2008). Note 1: Working at home is not included in the transportation model, so the 2040 Goal shows percentages for only those modes currently included in the model. | | | |
| 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. | | |
| 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. | | |
| 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. | | |
| 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. | | |
| TR-8.9 | Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development. | | |
| TR-9.1 | Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips. | | |

3.17.1.2 *Existing Conditions*

Roadway network

Regional Access

Regional access to the project site is provided by Interstate 880 (I-880) and Interstate 280 (I-280).

I-880 is a six-lane freeway that extends north to Oakland and south to I-280 in San José.

I-280 is an eight-lane freeway that extends northwest to San Francisco and east to King Road in San José. Access to and from northbound I-280 to the site is provided via ramps at Parkmoor Avenue. Access to and from southbound I-280 to the site is provided via ramps at Moorpark Avenue. Alternative access to I-280 is provided via an interchange at Meridian Avenue.

Local Access

Local site access is provided by West San Carlos Street, Bascom Avenue, Leigh Avenue, Brooklyn Avenue, and Boston Avenue.

West San Carlos Street is a divided four-lane, east-west roadway that extends from downtown San José to I-880.

Bascom Avenue is a divided four-lane, north-south roadway that extends from I-880 to Los Gatos Boulevard.

Leigh Avenue is a two-lane, north-south roadway that extends southward from West San Carlos Street to Blossom Hill Road. North of San Carlos Street, Leigh Avenue makes a transition to Shasta Avenue.

Brooklyn Avenue is a two-lane, north-south roadway that extends northward from West San Carlos Street to Dana Avenue.

Boston Avenue is a two-lane, north-south roadway that extends northward from West San Carlos Street to Forest Avenue.

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), routes (Class III), and protected bicycle lanes (Class IV). Class II bicycle facilities (striped bike lanes) are provided along the following roadways within the project area:

- Stevens Creek Boulevard, between Bellrose Drive and Monroe Street
- Forest Avenue, between Bascom Avenue and Ciro Avenue
- Park Avenue, along the entire length of the street

Class III bicycle routes are present on the following roadways:

- Dana Avenue, between San Carlos Street and Hedding Street
- Bellrose Drive, between Forest Avenue and Pfeffer Lane
- Scott Street, between Willard Avenue and Bascom Avenue

Additionally, the Los Gatos Creek Trail is located in the project area and begins at Vasona Lake County Park to West San Carlos Street. Existing bicycle facilities are shown in Figure 3.17-1.

Pedestrian Facilities

Pedestrian facilities in the study area consist of sidewalks along all the surrounding streets, including West San Carlos Street. Crosswalks and pedestrian push buttons are located at all signalized intersections within the project area. There are also high visibility crosswalks (e.g., the Brooklyn Avenue and West San Carlos Street intersection) and countdown signal heads located at signalized intersections within the vicinity of the project site.

Overall, the existing sidewalks and pedestrian facilities provide adequate pedestrian connectivity and safe routes to transit and other services and points of interest.

Transit Services

Transit services in the area are provided by VTA, Caltrain, Altamont Commuter Express (ACE), and Amtrak. The existing transit facilities are shown in Figure 3.17-2 below. The project site is located approximately 1.36 miles southwest of the Diridon Transit Center.

Bus Service

The project site is served by two bus routes (Frequent Route 23 and Rapid Route 523). The nearest bus stops to the site are located along West San Carlos Street (Frequent Route 23), approximately 100 feet from the site. Rapid Route 523 is located approximately 800 feet from the site.

Light Rail Transit Service

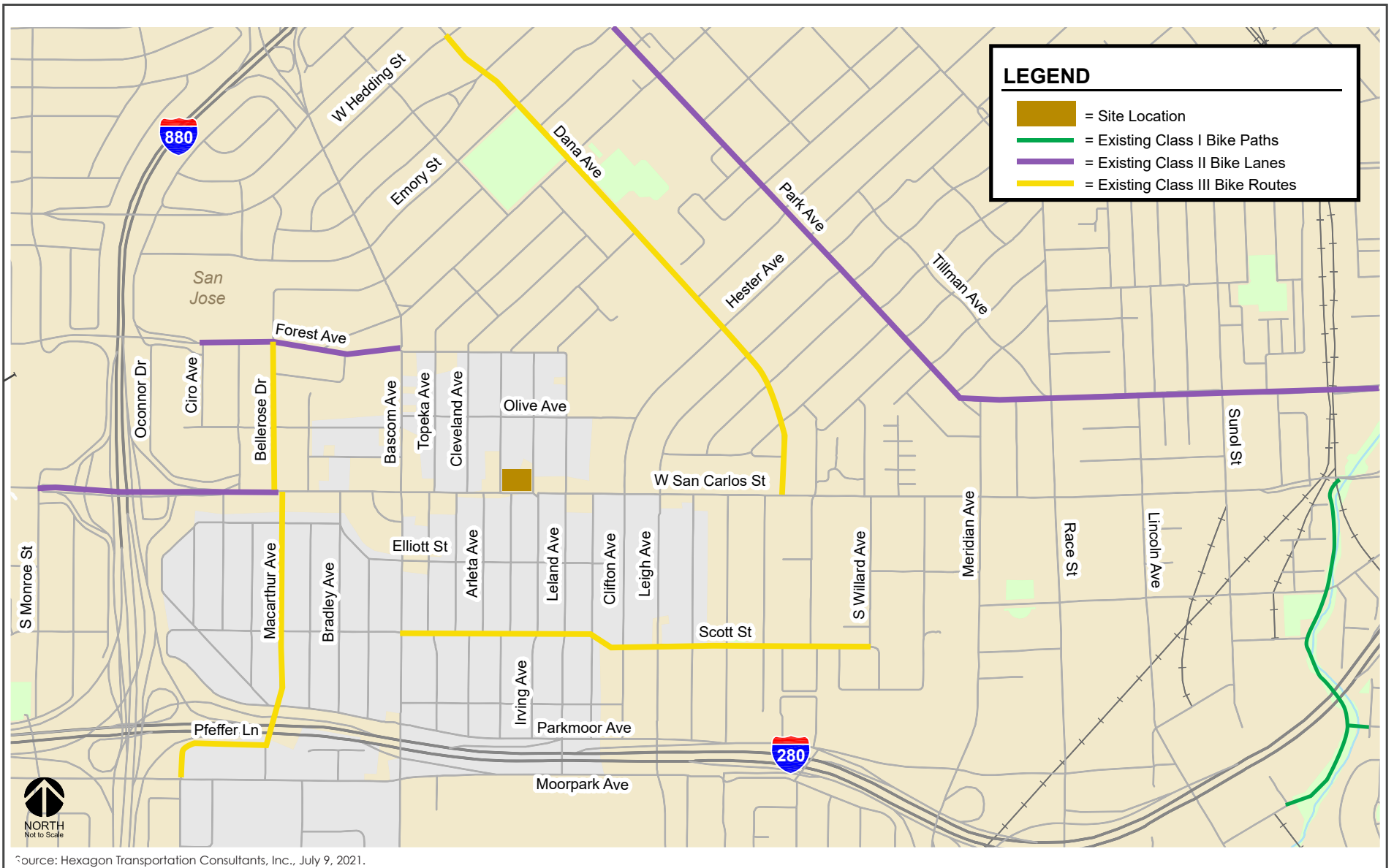
The VTA currently operates the 42.2-mile VTA light rail line system extending from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The Diridon Transit Center is located along the Green LRT line (Winchester-Old Ironsides) and serves as a transfer point to Caltrain, ACE, and Amtrak services.

Caltrain Service

Commuter rail service between San José and San Francisco is provided by Caltrain. Trains stop frequently at the Diridon Station between 4:28 AM and 10:30 PM in the northbound direction and between 6:31 AM and 1:38 AM in the southbound direction.

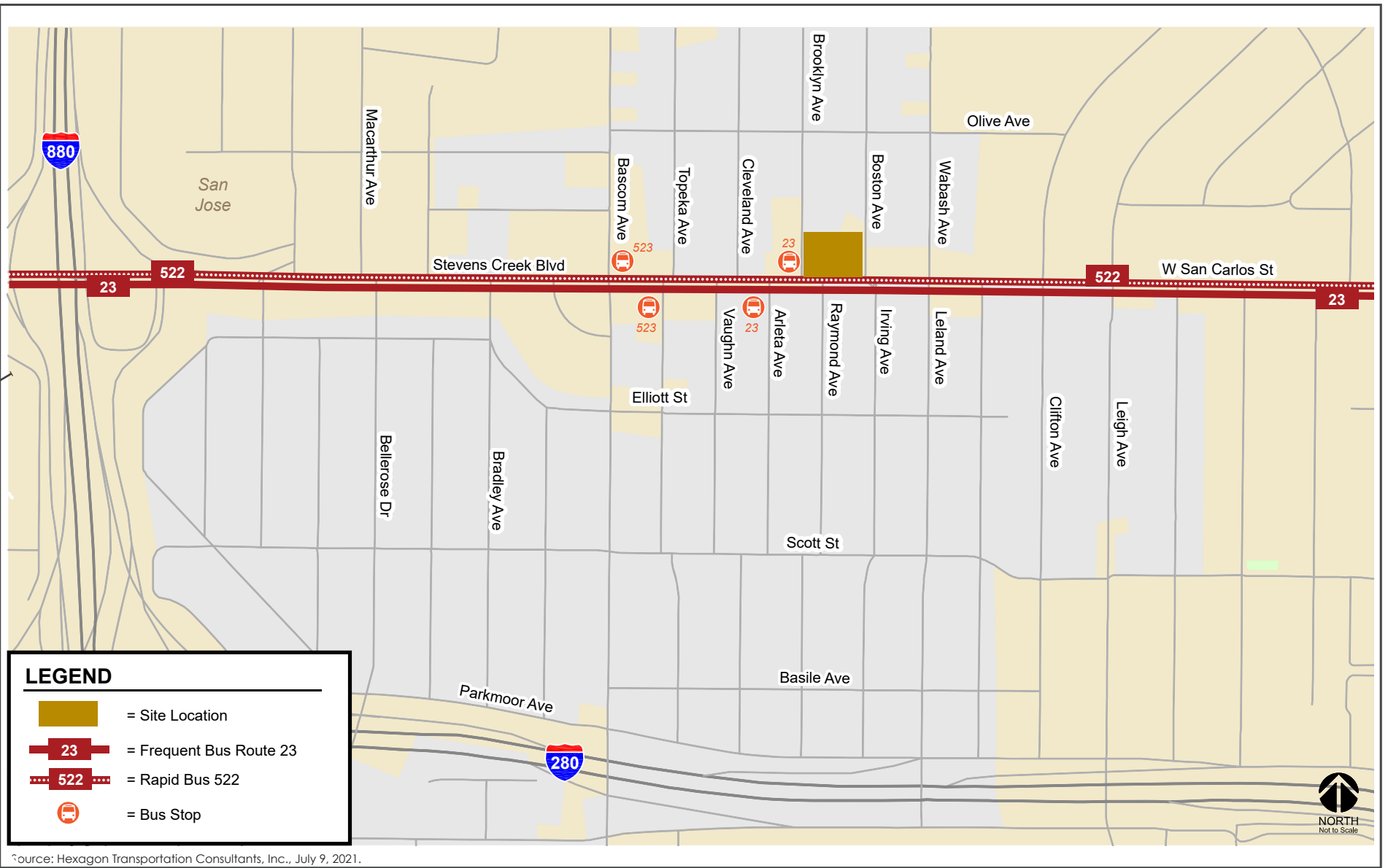
Altamont Commuter Express Service

ACE provides commuter rail service between Stockton, Lathrop/Manteca, Tracy, Livermore, Pleasanton, Fremont, Santa Clara, and San José during commute hours, Monday through Friday. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon.



EXISTING BICYCLE FACILITIES

FIGURE 3.17-1



EXISTING TRANSIT FACILITIES

FIGURE 3.17-2

and evening with headways averaging 60 minutes. ACE trains stop at the Diridon Station between 6:32 AM and 9:17 AM in the westbound direction, and between 3:35 PM and 6:38 PM in the eastbound direction.

Amtrak Service

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. The Capitol Corridor trains stop at the San José Diridon Station eight times during weekdays between approximately 7:38 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during weekdays between 6:40 AM and 7:15 PM.

3.17.1.3 VMT Methodology

The City of San José *Transportation Analysis Handbook* identifies screening criteria to determine whether a CEQA transportation analysis would be required for development projects. The criteria is based upon the type, characteristics, and/or location of the project. If a project or a component of a mixed-use project meets the City's screening criteria, the project or project component would have a less than significant VMT impact and; therefore, a detailed CEQA VMT analysis would not be required.

Per the City of San José VMT screening criteria, retail projects of 100,000 square feet or less are considered local-serving. The project proposes 6,000 square feet of retail space; therefore, a detailed VMT analysis is not required.

The project site is located within a Planned Growth Area (West San Carlos Urban Village) and is located along West San Carlos Street, a high-quality transit corridor. The proposed retail space is less than the 100,000-square foot retail threshold screening criteria for local-serving retail. Therefore, a detailed VMT analysis would not be required for the residential and retail component of the project.

Since the assisted living component does not fall into any of the residential, office, or industrial categories, the City has provided guidance to convert the estimate trip generation of the assisted living component to its office square footage equivalent. The proposed assisted living component of the project would not meet all of the VMT screening criteria; therefore, a CEQA-level transportation analysis was prepared.

To determine whether a project would result in transportation impacts associated with VMT, the City has developed a VMT Evaluation Tool to streamline the analysis for development projects. The VMT Evaluation Tool analyzes 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 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.

For this project, the VMT Evaluation Tool was used to estimate the project VMT and to determine whether the proposed project would result in a significant VMT impact. The assisted living facility was converted to office space to provide an estimate of the number and length of trips.⁷⁷ Traffic generated by the proposed assisted living facility was determined to be equivalent to 65,700 square feet of office space generating up to 640 daily trips.

The project proposes a mixed-use development which would consist of residential, retail, and assisted facility land uses. The retail component of the proposed project would not generate sufficient traffic to have an effect on the existing VMT per capita. Therefore, the VMT analysis analyzed the residential and assisted living facility components of the project. Projects that include residential uses would create a significant adverse impact when the estimated project generated VMT exceeds the existing citywide average VMT per capita minus 15 percent or existing regional average VMT per capita minus 15 percent, whichever is lower. Currently, the reported citywide average is 11.91 VMT per capita, which is less than the regional average. This equates to a significance threshold of 10.12 VMT per capita.

Projects that include general employment use (e.g., office) would create a significant adverse impact when the estimated project generated VMT exceeds the regional average VMT per employee minus 15 percent. Currently, the reported regional average is 14.37 VMT per employee. This equates to a significant impact threshold of 12.21 VMT per employee.

3.17.2 Impact Discussion

For the purpose of determining the significance of the project's impact on transportation, would the project:

- a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?
- b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?
- c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- d) Result in inadequate emergency access?

⁷⁷ The City's VMT Evaluation Tool can only calculate VMT for three categories (office, residential, and retail); therefore, the proposed assisted living facility was converted to office space.

a) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Bicycle Facilities

As mentioned previously, there are Class II and III bicycle facilities in the vicinity of the project site. Per the San José Bike Plan 2025, there are bicycle improvements planned for the project area that would enhance connectivity to bicycle facilities (refer to Appendix G). The project would not preclude implementation of any planned improvements. For these reasons, implementation of the proposed project would not conflict with any policies or plans regarding bicycle facilities or decrease the safety of these facilities. **(Less than Significant Impact)**

Pedestrian Facilities

Crosswalks and pedestrian push buttons are located at all signalized intersections within the project area. There is also a high visibility crosswalk located at the Brooklyn Avenue and West San Carlos Street intersection. Overall, the existing pedestrian facilities provide adequate pedestrian connectivity and safe routes to the surrounding destinations. Additionally, there are pedestrian improvements planned for the area that would enhance connectivity pedestrian facilities (refer to Appendix G). The project would not preclude implementation of any planned improvements. Therefore, implementation of the proposed project would not conflict with any policies or plans regarding pedestrian facilities or decrease the safety of these facilities. **(Less than Significant Impact)**

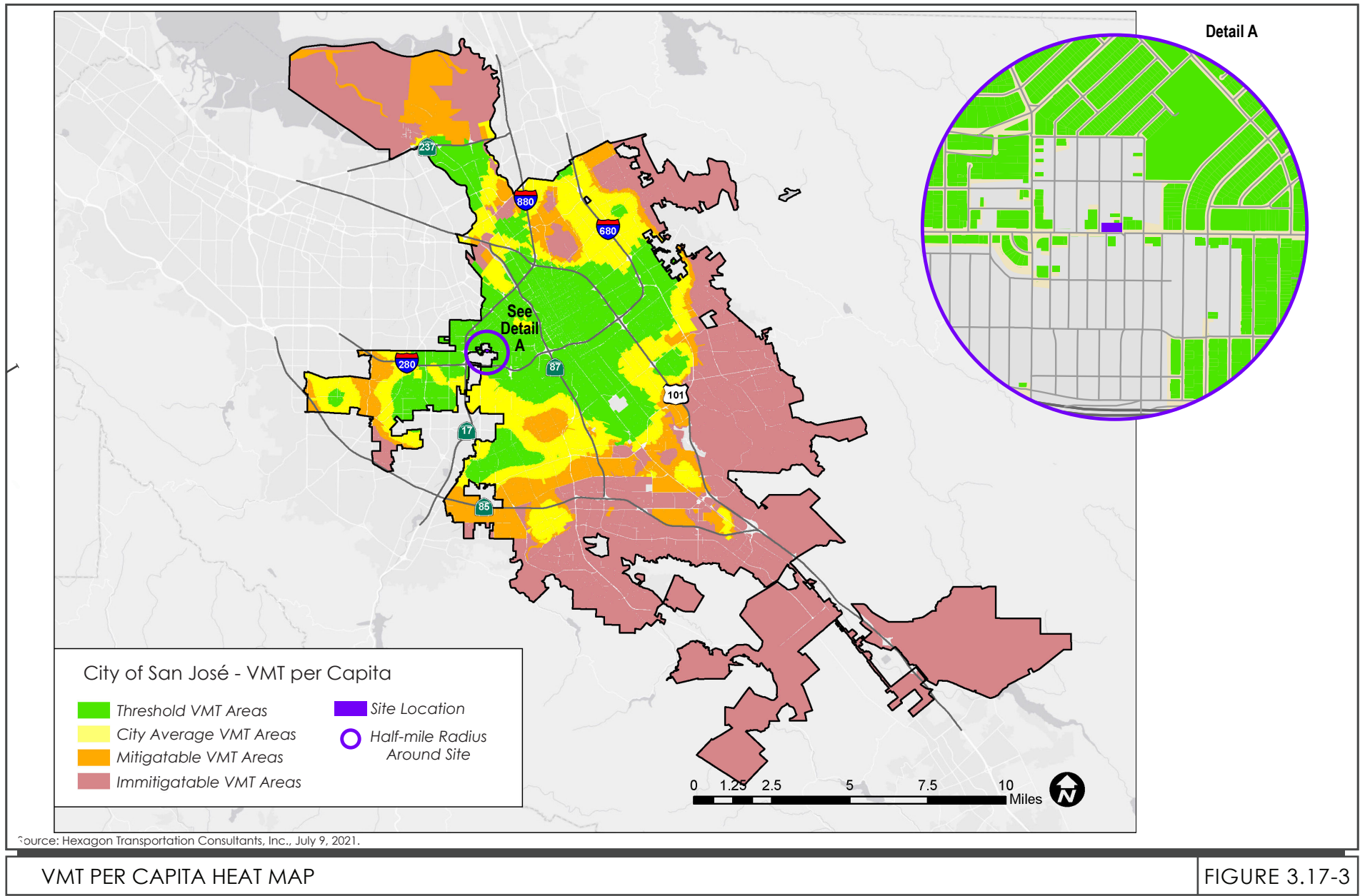
Transit Facilities

The project site is served by Frequent Route 23 and Rapid Route 523. Additionally, the Diridon Transit Center is located approximately 1.36 miles northeast from the project site. Implementation of the proposed project would not conflict with any policies or plans regarding transit facilities or decrease the safety of these facilities. **(Less Than Significant Impact)**

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

The current citywide average VMT for residential uses is 11.91 per capita and the current citywide average for general employment uses is 14.37 VMT per employee. Council Policy 5-1 identifies an impact threshold of 15 percent below the citywide average for residential uses and 15 percent below the regional average for general employment uses. The proposed project would result in a significant impact if it results in a VMT that exceeds 10.12 per capita or 12.21 VMT per employee (refer to Figures 3.17-3 and 3.17-4, respectively).⁷⁸ The City's VMT Evaluation Tool indicates that the project would have a VMT per capita of 7.95 and 12.84 VMT per employee (refer to Figure 3.17-5). While

⁷⁸ The City's VMT Evaluation Tool can only calculate VMT for three categories (office, residential, and retail); therefore, the proposed assisted living component of the project was converted to its office square footage equivalent. Since many of the trips associated with the assisted living portion of the project would be trips taken by employees, it is most similar to the office category when analyzing VMT.



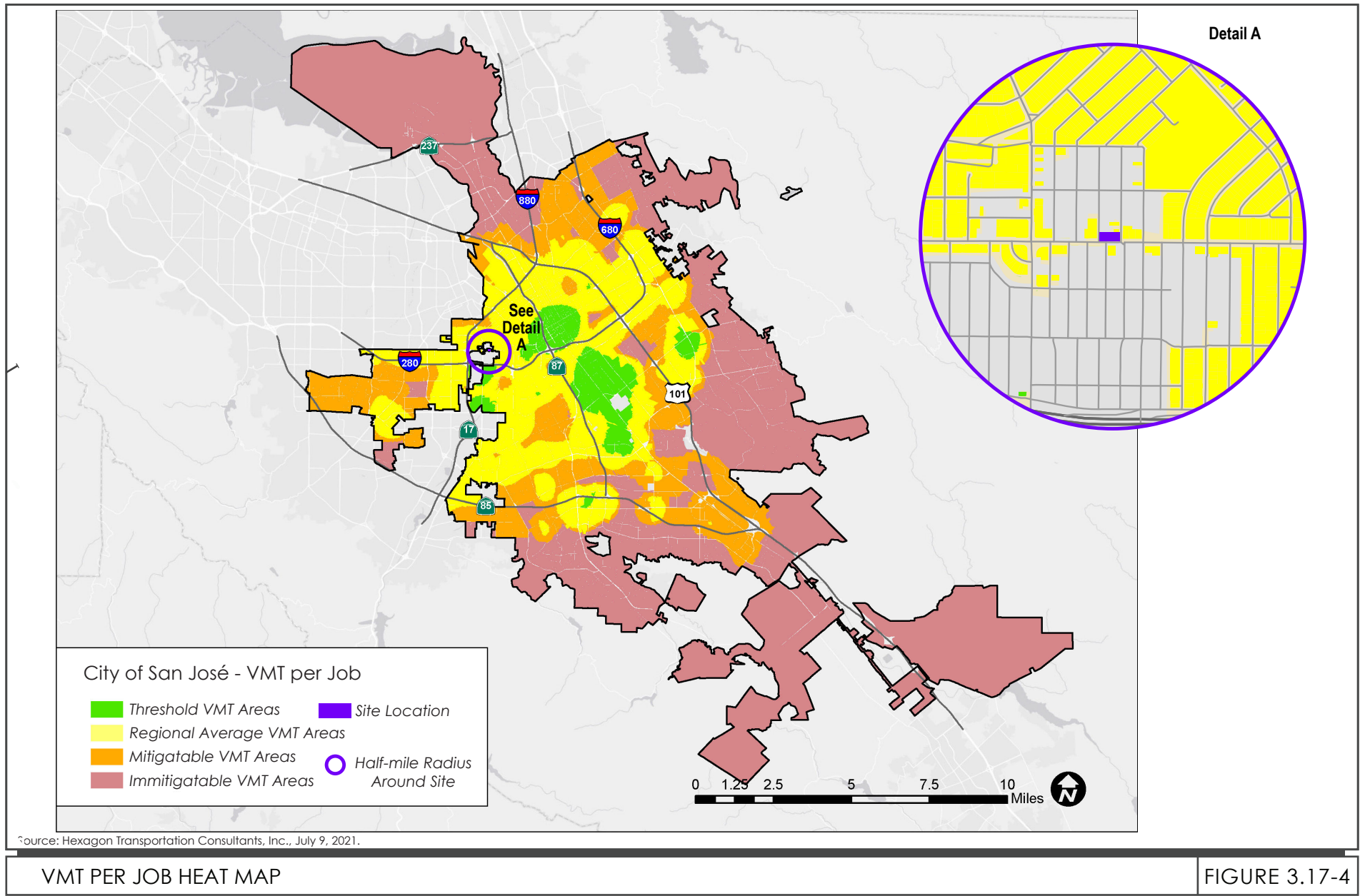
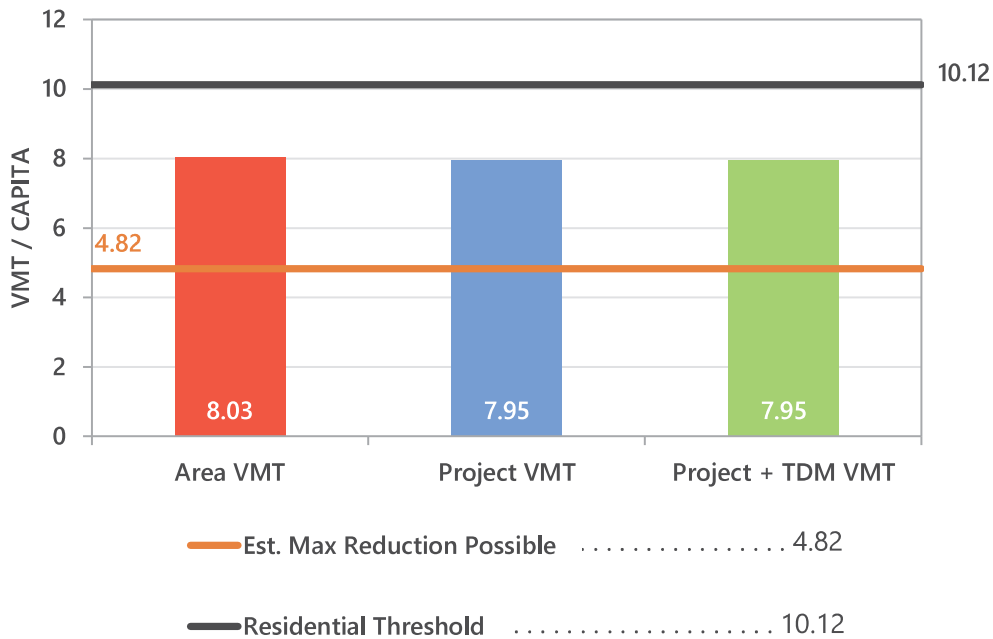


FIGURE 3.17-4

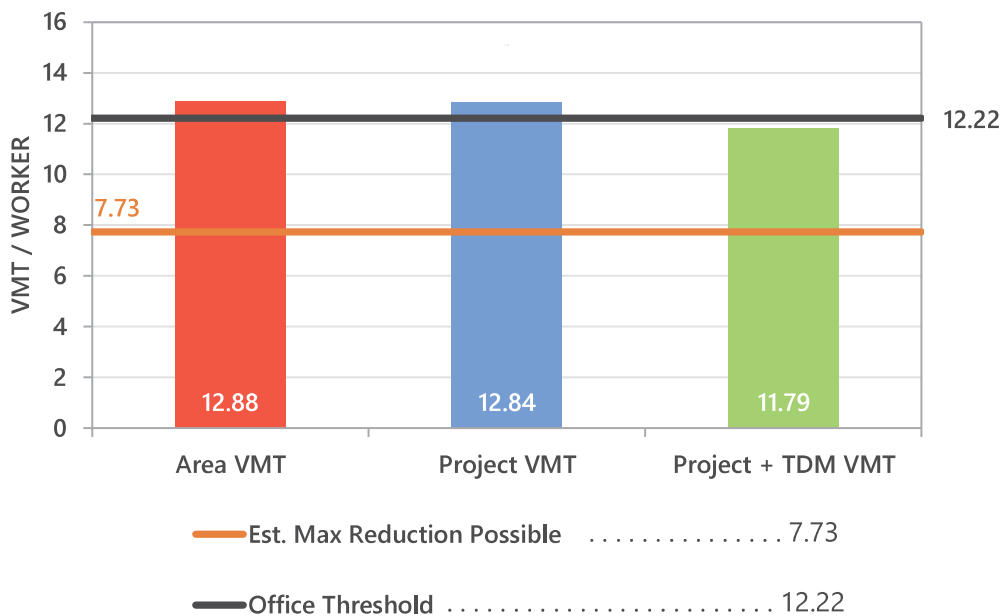
RESIDENTIAL ONLY

The tool estimates that the project would generate per capita VMT below the City's threshold.



EMPLOYMENT ONLY

The tool estimates that the project would generate per non-industrial worker VMT below the City's threshold.



Source: Hexagon Transportation Consultants, Inc., July 9, 2021.

the project would not exceed the VMT per capita threshold, it would exceed the VMT per employee threshold by 5.2 percent. Therefore, the proposed project would have a significant impact on the transportation system based on the City's VMT impact criteria.

Impact TRANS-1: The proposed project would exceed the vehicle miles traveled (VMT) per the employee threshold of 12.21 by 5.2 percent.

Mitigation Measure

MM TRANS-1.1: (a) The applicant shall identify a transportation demand management (TDM) coordinator who shall be responsible for implementing a ride-sharing program for at least 15 percent of future employees who have similar commutes. If the TDM coordinator changes, the Director of Planning, Building and Code Enforcement or the Director's designee and tenants of the project shall be notified of the name and contact information of the new designated TDM coordinator.

(b) The TDM coordinator shall be responsible for ensuring that the project meets the City's annual monitoring requirements. Monitoring shall include the following:

- **Annual Vehicle Trip Generation Counts (conducted by a third party).** Only the vehicle trip generation counts at the Brooklyn Avenue and Boston Avenue driveways entering the assisted-living surface parking area shall be counted. If the counts show that the project trip generation is higher than expected, then the TDM plan shall be altered or enhanced.
- **Annual Mode Share Surveys.** A survey shall be administered to all employees. This would provide qualitative data regarding employee perceptions of the alternative transportation programs and perceptions of the obstacles to using an alternative mode of transportation. The survey also would provide quantitative data regarding the number of employees who utilize alternative modes of transportation (e.g., bike-to-work, carpool, or use public transit) to commute to work, including the frequency of use. The mode share survey results should measure the relative effectiveness of individual TDM program components and facilitate the design of possible program enhancements in order to reduce single-occupant vehicle trips.
- **Annual Monitoring Report.** The TDM coordinator shall be responsible for submitting the monitoring reports to the Director of Planning, Building and Code Enforcement or the Director's designee for three years, and then upon request of the Zoning Administrator for the life of the project.

With implementation of Mitigation Measure TRANS-1.1, the project VMT would be reduced to 11.79 per employee which is below the threshold of 12.21 per employee. Therefore, the proposed project would result in a less than significant impact on the transportation system based on the City's VMT impact criteria. **(Less Than Significant Impact with Mitigation Incorporated)**

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)?

Vehicular access to the residential and retail components of the project would be provided via a full-access driveway along Brooklyn Avenue. The City's minimum driveway width requirement for multi-family and commercial developments is 26 feet. Based on the site plan provided by the applicant, the driveway would be consistent with the City's requirement.

Vehicular access to the senior care parking would be located at the rear of the building via two full-access driveways (one on Brooklyn Avenue and one on Boston Avenue). The Brooklyn Avenue and Boston Avenue driveways would be 26 feet wide, consistent with the City's driveway requirement.

Adequate sight distance would be required for the project driveways to ensure that exiting vehicles can see pedestrians on the sidewalk and other vehicles traveling along the streets in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards. Brooklyn Avenue and Boston Avenue do not have posted speed limits; therefore, it is assumed that the speed limits along these streets are 25 miles per hour (mph). Based on a design speed of 30 mph, the AASHTO stopping sight distance would be 200 feet; therefore, a driver exiting the project driveways must be able to see at least 200 feet along Brooklyn Avenue and Boston Avenue in order to stop and avoid a collision. The project would be required to comply with the following measure as a Condition of Approval.

Condition of Approval:

- Any street trees proposed along the public right-of-way (overseen by the Department of Transportation) shall be required to be maintained so that the vision of drivers exiting project driveways would not be obstructed.
- Red curb equal to a car length shall be painted on both sides of the driveway to ensure vehicles exiting project driveways have sight distance of 200 feet along Brooklyn Avenue and Boston Avenue.

With implementation of the identified Condition of Project Approval, the project would not substantially increase hazards due to a geometric design feature or include an incompatible use (e.g., farm equipment). **(Less Than Significant Impact)**

d) Would the project result in inadequate emergency access?

The fire code requires driveways to provide 32 feet of clearance for fire access. SJFD requires all portions of the buildings be within 150 feet of a fire department access road and requires a minimum of six feet clearance from the property line along all sides of the buildings. The proposed site design

would be required to provide adequate corner radii, driveway width, parking dimensions, and signage to satisfy the City of San José design standards. The final site design would be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact. **(Less Than Significant Impact)**

3.17.2.2 *Cumulative Impacts*

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

The proposed project is consistent with the General Plan land use designation and would be consistent with City Council Policy 5-3. Therefore, the project would not result in a cumulatively considerable contribution to a significant cumulative VMT impact. The project would not result in significant impacts to pedestrian, bicycle, and transit facilities nor would the project increase hazard due to a design feature or incompatible use. For these reasons, the project would not result in a cumulatively considerable contribution to a significant transportation impact.

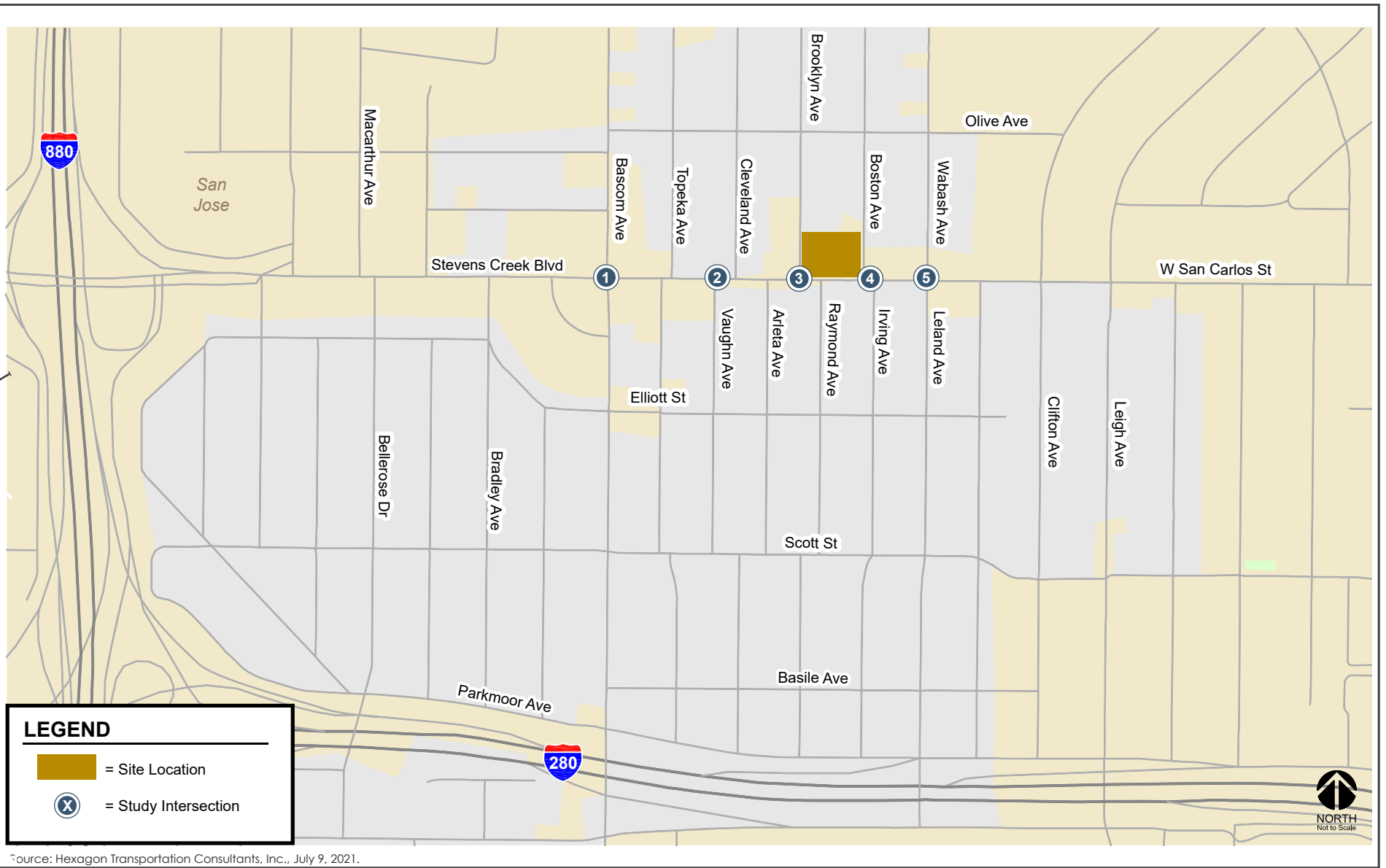
Additionally, the Department of Public Works shall coordinate all construction activities in the City of San José. Public Works coordination includes: 1) confirming that projects in proximity to each other are not requesting opposing roadway closures, 2) confirming that the detours for the proposed project do not conflict with other projects in the area or pedestrian, vehicle, and bicycle traffic, 3) confirming that the closures are not so extensive as to impact existing land uses in the area, 4) ensuring that the closures are reviewed by the Council Member for the area, and 5) ensuring the haul routes are reviewed by the Council Member for the area. Therefore, temporary roadway modifications resulting from construction of the proposed project would not conflict with other the construction of nearby projects or operation of the roadway network. **(Less Than Significant Cumulative Impact)**

3.17.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*BIA v. BAAQMD*), effects of the environment on the project are not considered CEQA impacts. While the evaluation of project CEQA impacts on the transportation system is focused on vehicle miles traveled (VMT), in accordance with the City of San José Transportation Policy (Council Policy 5-1), the following discussion is included for informational purposes because City Council Policy 5-1 requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Methodology

An LTA was completed for two signalized intersections and three unsignalized intersections. The locations of the study intersections are listed below and shown on Figure 3.17-6.



SITE LOCATION AND STUDY INTERSECTIONS

FIGURE 3.17-6

- Bascom Avenue and West San Carlos Street
- Vaughn Avenue and West San Carlos Street (unsignalized)
- Brooklyn Avenue and West San Carlos Street (unsignalized)
- Boston Avenue and West San Carlos Street (unsignalized)
- Leland Avenue/Wabash Street and West San Carlos Street

Existing AM and PM Peak Hour traffic volumes at all signalized study intersections were obtained from the City of San José. Since count data is not available for the three unsignalized study intersections, counts were collected at all study intersections. The new turning movement counts were then compared to existing counts and factored to represent pre-COVID traffic volumes at the unsignalized study intersections. Traffic conditions at all study intersections were analyzed for the weekday AM and PM Peak Hours of adjacent street traffic. The AM Peak Hour is defined as 7:00 AM to 9:00 AM and the PM Peak Hour is defined as 4:00 PM to 6:00 PM. The peak hours represent the periods of greatest traffic congestion on a typical weekday.

Additionally, traffic conditions were evaluated for the following scenarios to determine if the level of service (LOS) of the local intersections in the project area would be adversely affected by project generated traffic:

- Scenario 1:** Existing – Existing traffic conditions.
- Scenario 2:** Background Conditions – Scenario 1 plus approved but not yet constructed development.
- Scenario 3:** Background Plus Project Conditions – Scenario 2 plus traffic generated by the project.

City of San José Intersection Level of Service

Traffic conditions at the study intersections were evaluated using LOS. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flowing conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. Intersection LOS was evaluated using TRAFFIX software, which is based on the Highway Capacity Manual (HCM) 2000 method for signalized intersections. The correlation between average delay and LOS is shown in Table 3.17-1.

| Table 3.17-1: Intersection Level of Service Definitions Based on Delay | | |
|---|---|---|
| Level of Service | Description | Average Control Delay per Vehicle⁷⁹ |
| A | Operations with very low delay occurring with favorable progression and/or short cycle lengths. | Up to 10.0 |
| B | Operations with low delay occurring with good progression and/or short cycle lengths. | 10.1 to 20.0 |

⁷⁹ Measured in seconds.

| Table 3.17-1: Intersection Level of Service Definitions Based on Delay | | |
|---|---|--|
| Level of Service | Description | Average Control Delay per Vehicle¹⁷⁹ |
| C | Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear. | 20.1 to 35.0 |
| D | Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high volume-to-capacity (V/C) ratios. Many vehicles stop and individual cycle failures are noticeable. | 35.1 to 55.0 |
| E | Operations with high delay indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. LOS E describes operations considered to be the limit of acceptable delay. | 55.1 to 80.0 |
| F | Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths. | Greater than 80.0 |
| Source: Transportation Research Board, <i>2000 Highway Capacity Manual</i> (Washington, D.C., 2000). p. 10-16. | | |

City of San José Definition of Adverse Intersection Effects

Based on City of San José's 2018 *Transportation Analysis Handbook*, an adverse effect on signalized intersection operations occurs if the additional project traffic caused one of the following for either peak hour:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the volume-to-capacity ratio (V/C) to increase by 0.01 or more.

The exception to this threshold is when the addition of project traffic reduces the amount of average control delay for critical movements (e.g., the change in average control delay for critical movements are negative). In this case, the threshold is when the project increases the critical V/C value by 0.01 or more.

Trip Generation Estimates

Vehicle trips generated by the project were estimated using the rates for “Assisted Living” (Land Use Code 254), “Mid-Rise Multi-family Housing” (Land Use Code 221), and “Shopping Center” (Land Use Code 820) as published in the Institute of Transportation Engineers’ (ITE) *Trip Generation Manual*, 10th Edition (2017).

A mixed-use development with complementary land uses such as residential and retail, residential and employment, and employment and retail would result in a reduction of external site trips since a

portion of the trips would not be entering or exiting the site. Based on VTA's recommended mixed-use reduction, a 15 percent trip reduction may be applied for the residential and retail uses, based on the retail component. The reduction is applied to the smaller of the two trip generators and the same number of trips is then subtracted from the larger trip generator. A three percent trip reduction was applied for the residential and employment land uses, based on the employment component. Additionally, a three percent trip reduction was applied for the employment/employee-serving retail component, based on the employment component.

Based on the City of San José *Transportation Analysis 2018 Handbook*, the project site is located within a designated urban area with low access to transit and would qualify for a location-based adjustment. Residential developments and retail uses within urban low-transit areas have a vehicle mode share of 87 percent; therefore, a 13 percent reduction was applied to the residential and retail trips generated by the project. Employment uses within urban low-transit areas have a vehicle mode share of 91 percent; therefore, a nine percent reduction was applied to the assisted living trips generated by the proposed project.

Based on the City of San José VMT Evaluation Tool, the project is estimated to generate 7.95 VMT per capita in an area that currently generates approximately 8.03 VMT per capita. It is assumed that every percent reduction from the existing per-capita VMT is equivalent to one percent reduction in peak-hour vehicle trips; therefore, a one percent trip reduction in peak hour trips was applied to the residential portion. Additionally, the project is estimated to generate 12.84 VMT per employee in an area that currently generates approximately 12.88 VMT per employee. Therefore, a 0.3 percent trip reduction in peak hour trips was applied to the employment portion.

A summary of the project trip generation estimates is shown in Table 3.17-2 below.

| Table 3.17-2: Project Trip Generation Estimates | | | | | | | |
|---|-------|--------------|-----|-------|--------------|-----|-------|
| Land Use | Daily | AM Peak Hour | | | PM Peak Hour | | |
| | | In | Out | Total | In | Out | Total |
| Proposed Land Uses | | | | | | | |
| Assisted Living – 246 beds | 640 | 30 | 17 | 47 | 24 | 40 | 64 |
| Employment-Retail Internal Reduction | <19> | <1> | <1> | <2> | <1> | <1> | <2> |
| Residential-Employment Internal Reduction | <10> | <0> | <0> | <0> | <0> | <0> | <0> |
| Location Based Reduction | <56> | <3> | <1> | <4> | <2> | <3> | <5> |
| VMT Reduction | <2> | <0> | <0> | <0> | <0> | <0> | <0> |
| Mid-Rise Multi-family Housing – 61 units | 332 | 6 | 16 | 22 | 16 | 11 | 27 |
| Residential-Employment Internal Reduction | <10> | <0> | <0> | <0> | <0> | <0> | <0> |
| Residential-Retail Internal Reduction | <34> | <1> | <0> | <1> | <2> | <2> | <4> |
| Location Based Reduction | <42> | <1> | <2> | <3> | <2> | <1> | <3> |

| Table 3.17-2: Project Trip Generation Estimates | | | | | | | |
|---|------------|--------------|-----------|-----------|--------------|-----------|-----------|
| Land Use | Daily | AM Peak Hour | | | PM Peak Hour | | |
| | | In | Out | Total | In | Out | Total |
| <i>VTM Reduction</i> | <2> | <0> | <0> | <0> | <0> | <0> | <0> |
| Shopping Center | 227 | 4 | 2 | 6 | 11 | 12 | 23 |
| <i>Employment-Retail Internal Reduction</i> | <19> | <1> | <1> | <2> | <1> | <1> | <2> |
| <i>Residential-Retail Internal Reduction</i> | <34> | <1> | <0> | <1> | <2> | <2> | <4> |
| <i>Location Based Reduction</i> | <23> | <0> | <0> | <0> | <1> | <1> | <2> |
| Total Net Project Trips | 948 | 32 | 30 | 62 | 40 | 52 | 92 |

Based on the trip generation table above, the project would generate approximately 948 new daily trips with 62 trips (32 inbound trips and 30 outbound trips) during the AM Peak Hour and 92 new trips (40 inbound trips and 52 outbound trips) during the PM Peak Hour.

Level of Service at Study Intersections

Under existing, background, and background plus project conditions, all study intersections currently operate at an acceptable LOS D or better during both the AM and PM Peak Hours as shown in Table 3.17-3. Under background and background plus project conditions, all signalized intersections would continue to operate at acceptable levels of service during both AM and PM Peak Hours.

Table 3.17-3: Intersection Level of Service

| No. | Intersection | Peak Hour | Existing | | Background | | Background Plus Project | | | |
|-----|---|-----------|----------|-----|------------|-----|-------------------------|-----|----------------------------|--------------------------|
| | | | Delay | LOS | Delay | LOS | Average Delay | LOS | Increase in Critical Delay | Increase in Critical V/C |
| 1 | Bascom Avenue and San Carlos Street | AM | 38.2 | D | 41.4 | D | 40.1 | D | -1.8 | -0.051 |
| | | PM | 45.7 | D | 49.5 | D | 47.7 | D | -2.2 | -0.058 |
| 2 | Vaughn Avenue & San Carlos Street | AM | 10.7 | B | 10.7 | B | 10.9 | B | 0.1 | 0.024 |
| | | PM | 12.6 | B | 12.6 | B | 12.7 | B | 0.1 | 0.036 |
| 3 | Brooklyn Avenue & San Carlos Street | AM | 15.7 | C | 15.7 | C | 17.1 | C | 0.5 | 0.083 |
| | | PM | 13.0 | B | 13.0 | B | 14.0 | B | 0.4 | 0.074 |
| 4 | Boston Avenue & San Carlos Street | AM | 12.6 | B | 12.6 | B | 12.9 | B | 0.1 | 0.023 |
| | | PM | 12.2 | B | 12.2 | B | 12.5 | B | 0.1 | 0.021 |
| 5 | Leland Avenue/Wabash Avenue & San Carlos Street | AM | 20.8 | C | 20.8 | C | 21.1 | C | 0.4 | 0.007 |
| | | PM | 14.4 | B | 14.3 | B | 14.8 | B | 0.5 | 0.006 |

Bicycle Parking

Based on the City's Municipal Code, the project would be required to provide one bicycle parking space per 10 full-time employees, one bicycle parking space per four residential units, and one bicycle parking space per 3,000 square feet of retail space. Additionally, a minimum of two short-term bicycle parking spaces and one long-term bicycle parking space is required for non-residential uses. Based on these requirements, the project is required to provide three bicycle parking spaces for the assisted living component, 16 bicycle parking spaces for the residential use, and three parking spaces for the commercial use. Of the required residential bicycle parking, City standards require that at least 60 percent be secured long-term bicycle spaces and at most 40 percent be short-term bicycle spaces. Of the required commercial bicycle parking, City standards require that at least 80 percent be short-term bicycle spaces and at most 20 percent be secured long-term bicycle spaces.

The site plan shows bicycle storage lockers in the residential lobby. Per the site plan, a total of 64 long-term bicycle locker spaces are provided within the lobby of the residential building. In addition, bicycle parking would be adjacent to the motorcycle parking along the ground level drive aisle and near the main lobby for employees and visitors of the assisted living facility. The retail/commercial space would be required to provide two short-term bicycle parking spaces. Bicycle racks are proposed which would provide short-term bicycle parking for retail visitors. Nevertheless, the proposed project would be required to meet the City's bicycle parking requirement.

Vehicle Parking

Based on the City's parking requirements (Section 20.90.060 of the City's Municipal Code), the project would be required to provide a total of 216 parking spaces. Since the project site is located within an Urban Village, a 20 percent reduction could be granted if the project meets the City's bicycle parking requirement. With the 20 percent reduction, the vehicle parking requirement would be reduced to 172 vehicle parking spaces. The project proposes 199 parking spaces (80 spaces for residential use, 33 spaces for retail use, and 86 ground level parking spaces for both visitors and employees) which represents an eight percent reduction from the City's parking requirement. The proposed project would be required to submit a transportation demand management (TDM) plan to meet the City's requirement. The project would exceed the City's parking requirement with the reduction.

3.18 TRIBAL CULTURAL RESOURCES

Public comments received during the NOP scoping process pertained to consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project. Assembly Bill 52 (AB 52) is addressed in *Section 3.18.2.1* below.

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 2015, established a new category of resources for consideration by public agencies 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 until 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, or
 - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- A resource determined by the lead agency to be a TCR.

3.18.1.2 *Existing Conditions*

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D.

Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people were hunter/gatherers focused on hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate, and the impact of the California mission system established by the Spanish in the area beginning in 1777.

The nearest creek to the site is Los Gatos Creek, which is located approximately 1.4 miles east of the project site.

3.18.2 Impact Discussion

For the purpose of determining the significance of the project's impact on tribal cultural resources, would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
- b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

3.18.2.1 *Project Impacts*

-
- a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?**
-

No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Assembly Bill 52 requires lead agencies to complete 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. In 2017, the City had sent a letter to tribal representatives in the area to welcome participation in consultation process for all ongoing, proposed, or future projects within the City's Sphere of Influence or specific areas of the City. The Ohlone Tribe submitted a request in July of 2018 for notification of projects requiring a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report that would involve ground-disturbing activities within the City of San José. At the time of the preparation of this Draft EIR, two tribes have sent written requests for notification of projects to the City of San José and one verbal request has been made.

- On July 9, 2018, a representative of the Ohlone Indian Tribe, Inc., requested notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b). In response to a more specific verbal request in a meeting with City staff and the representative on July 12, 2018, clarification was received that such notification be sent only for projects in the City of San José that involve ground disturbing activities in downtown, and that such requests may be sent via e-mail only for future projects require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. As this project is not in downtown, no notification was sent to the Ohlone Indian Tribe, Inc.
- On June 17, 2021, Chairwoman Geary of the Tamien Nation verbally requested AB52 notification and the written notice received June 28, 2021, requesting notification of projects in accordance with Public Resources Code Section 21080.3.1 subd (b), for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report. Accordingly, AB52 notification was sent electronically and via mail to Tamien Nation on March 9, 2022. No response was received.
- On June 30, 2021, Kanyon Sayers-Roods of the Band of Costanoan Ohlone people verbally requested AB52 notification for all proposed projects that require a Negative Declaration, Mitigated Negative Declaration, or an Environmental Impact Report. Accordingly, the project's AB 52 notification was sent electronically on March 9, 2022. Ms. Sayers-Roods, in her March 28, 2022 response, did not identify any Tribal cultural resources at the site, and recommended Native American monitoring and cultural sensitivity training.

As discussed in *Section 3.5, Cultural Resources*, an archaeological literature review was prepared for the project site. The findings of that review were that the project site had a low potential for cultural resources. Therefore, the City determined that impacts to TCRs would be less than significant with implementation of the City's Standard Permit Conditions for the inadvertent discovery of subsurface cultural resources and human remains. **(Less than Significant Impact)**

b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?

There are no known tribal cultural resources on-site. Any subsurface artifacts found on-site would be addressed consistent with the standard measures identified in the General Plan FEIR (as amended). Therefore, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resources that is determined by the lead agency (i.e., the City of San José), 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. **(Less than Significant Impact)**

3.18.2.2 Cumulative Impacts

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

The geographic study area for cumulative impacts to tribal cultural resources is the surrounding area (within 1,000 feet of the project site). No cultural resources were identified in the project area. Therefore, the project would not result in a cumulatively considerable tribal cultural resources impact. **(Less than Significant Cumulative Impact)**

3.19 UTILITIES AND SERVICE SYSTEMS

Public comments received during the NOP scoping process pertained to water, power, and sewage impacts with infrastructure that is aging, as well as wastewater cost and maintenance. This is not a CEQA impact and is not further discussed.

3.19.1 Environmental Setting

3.19.1.1 *Regulatory Framework*

State

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in November 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989 (AB 939) established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels), beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent

reduction in organic waste disposal by the year 2020.

California Green Building Standards Code

In January 2010, the State of California adopted the California Green Building Standards Code, establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent (see San José-specific CALGreen building code requirements in the local regulatory framework section below); and
- Providing readily accessible areas for recycling by occupants

City of San José

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the State requirement of 65 percent (San José Municipal Code Section 9.10.2480).

San José Construction & Demolition Diversion Program

The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. Permit holders pay this fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, renovation, or a certain type of tenant improvement. The minimum project valuation for a deposit is \$2,000 for an alteration-renovation residential project and \$5,000 for a non-residential project. There is no minimum valuation for a demolition project and no square footage limit for the deposit applicability. The deposit is fully refundable if construction and demolition materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation

require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Private Sector Green Building Policy

The City of San José's Green Building Policy for private sector new construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in building design process. This policy establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety and welfare of San José residents, workers, and visitors by fostering practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water and other resources in the City of San José.

Envision San José 2040 General Plan

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to utilities and service systems and are applicable to the project.

| General Plan Policies - Utilities & Service Systems | |
|--|---|
| 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. |
| MS-3.2 | Promote use of green building technology or techniques that can help reduce the depletion of the City's potable water supply as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations. |
| MS-3.3 | Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses. |
| MS-17.1 | Manage the limited water supply in an environmentally, fiscally, and economically sustainable manner, by working with local, regional and statewide agencies to establish policies that promote water use efficiency programs, including recycled water programs to support the expanded use of recycled water within San José and neighboring jurisdictions. |
| MS-19.1 | Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a fiscally and environmentally sustainable local water supply. |
| MS-19.4 | Require the use of recycled water wherever feasible and cost-effective to serve existing and new development. |
| IN-3.1 | Achieve minimum level of services: <ul style="list-style-type: none"> For sanitary sewers, achieve a minimum level of service "D" or better as described in the Sanitary Sewer Level of Service Policy and determined based on the guidelines provided in the Sewer Capacity Impact Analysis (SCIA) Guidelines. |

| General Plan Policies - Utilities & Service Systems | |
|--|--|
| | <ul style="list-style-type: none"> For storm drainage, to minimize flooding on public streets and to minimize the potential for property damage from stormwater, implement a 10-year return storm design standard throughout the City, and in compliance with all local, State and Federal regulatory requirements. |
| 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. |
| IN-3.4 | <p>Maintain and implement the City's Sanitary Sewer Level of Service Policy and Sewer Capacity Impact Analysis (SCIA) Guidelines to:</p> <ul style="list-style-type: none"> Prevent sanitary sewer overflows (SSOs) due to inadequate capacity so as to ensure that the City complies with all applicable requirements of the Federal Clean Water Act and State Water Board's General Waste Discharge Requirements for Sanitary Sewer Systems and National Pollutant Discharge Elimination System permit. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters. Maintain reasonable excess capacity in order to protect sewers from increased rate of hydrogen sulfide corrosion and minimize odor and potential maintenance problems. Ensure adequate funding and timely completion of the most critically needed sewer capacity projects. Promote clear guidance, consistency and predictability to developers regarding the necessary sewer improvements to support development within the City. |
| 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. |
| IN-3.9 | Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards. |
| IN-4.1 | Monitor and regulate growth so that the cumulative wastewater treatment demand of all development can be accommodated by San José's share of the treatment capacity at the San José/Santa Clara Regional Wastewater Facility. |
| IN-4.2 | Maintain adequate operational capacity for wastewater treatment and water reclamation facilities to accommodate the City's economic and population growth. |
| IN-4.4 | Maintain and operate wastewater treatment and water reclamation facilities in compliance with all applicable local, State and federal clean water, clean air, and health and safety regulatory requirements. |
| IN-5.3 | Use solid waste reduction techniques, including source reduction, reuse, recycling, source separation, composting, energy recovery and transformation of solid wastes to extend the life span of existing landfills and to reduce the need for future landfill facilities and to achieve the City's Zero Waste goals. |

| General Plan Policies - Utilities & Service Systems | |
|---|--|
| IP-17.1 ⁸⁰ | <p>Use San José’s adopted Green Vision as a tool to advance the 2040 General Plan Vision for Environmental Leadership. San José’s Green Vision is a comprehensive fifteen-year plan to create jobs, preserve the environment, and improve quality of life for our community, demonstrating that the goals of economic growth, environmental stewardship and fiscal sustainability are inextricably linked. Adopted in 2007, San José’s Green Vision, adopted in 2007, establishes the following Environmental Leadership goals for the City through 2022:</p> <p>5. Divert 100 percent of the waste from our landfill and convert waste to energy; Although the City has one of the highest waste diversion rates of any large city in the nation, many waste reduction opportunities remain. If San José and other local cities achieve no further waste reduction efforts over the next 15 years, solid waste landfill space in the region could reach capacity.</p> |

3.19.1.2 Existing Conditions

Water Supply

Water service is provided to the City of San José by three water retailers, SJW, the City of San José Municipal Water System, and the Great Oaks Water Company. Water service to the project site is provided by SJW. The service area of SJW is 139 square miles, including most of the cities of San José and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County. Potable water provided to the service area is sourced from groundwater, imported treated water and local surface water.

The site is currently developed with four commercial buildings. The site currently uses approximately 6,697 gallons of water per day (gpd).⁸¹

Wastewater Services

Wastewater treatment in San José is provided by the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility serves approximately 1.4 million residents and over 17,000 businesses by treating an average of 110 million gallons of wastewater per day (mgd), with a capacity of up to 167 mgd.⁸² The Facility is currently operating under a 120 mgd dry weather effluent flow constraint. This requirement is based upon the SWRCB and RWQCB concerns over the effects of additional freshwater discharges on the saltwater march habitat and pollutant loading to the Bay from the Facility. The City’s share of the Facility’s treatment capacity is approximately 108.6 mgd. Based on the average daily dry weather flows from sources in San José (approximately 69.8 mgd), the City currently has approximately 38.8.⁸³

⁸⁰ Policy IP-17.1, as shown, is modified in this list to reflect only those items relevant to the discussion of solid waste.

⁸¹ Water usage rates were calculated using CalEEMod Appendix D (Strip Mall). CalEEMod. “Table 9.1: Water Use Rates.” Accessed July 23, 2021. <http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf>.

⁸² City of San José. San José-Santa Clara Regional Wastewater Facility. Accessed July 23, 2021.

<https://www.sanjoseca.gov/your-government/environment/water-utilities/regional-wastewater-facility>.

⁸³ City of San José. *Envision San José 2040 General Plan FPEIR*. September 2011.

The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 95 percent of the total on-site water use. The existing buildings are estimated to generate approximately 6,362 gpd of wastewater.

Storm Drainage

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 1.4 miles west of Los Gatos Creek. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is entirely covered with impervious surfaces. There are existing storm drain lines that run along West San Carlos Street which serve the project site.

Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. In 2019, there were approximately 600,000 tons of solid waste generated in San José that was disposed in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.⁸⁴

All solid waste in San José is landfilled at Newby Island Sanitary Landfill (NISL), however, City certified construction and demolition recycling facilities should be used during the construction phase. The City has an existing contract with NISL through 2041 with the option to extend the contract. The estimated closure date for NISL is 2041.⁸⁵ The City has an annual disposal allocation for 395,000 tons per year. As of April 2021, NISL had approximately 13.7 million cubic yards of capacity remaining.⁸⁶

The existing buildings on-site generate approximately 82 pounds of solid waste per day.⁸⁷

⁸⁴ Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report*. June 2016.

⁸⁵ North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.

⁸⁶ Ibid.

⁸⁷ CalRecycle. "Estimated Solid Waste Generation Rates." Accessed July 23, 2021.

<https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>. Based on the generation rate of 2.5 pounds per 1,000 square feet per day for commercial retail.

3.19.1.3 *Impact Discussion*

For the purpose of determining the significance of the project's impact on utilities and service systems, would the project:

- a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?
- b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?
- c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?
- e) Be noncompliant with federal, State, or local management and reduction statutes and regulations related to solid waste?

3.19.1.4 *Project Impacts*

-
- a) **Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**
-

Water Facilities

Under existing conditions, the site currently uses approximately 6,697 gallons of water per day. The proposed project would use approximately 91,313 gpd of water⁸⁸, a net increase of approximately 84,616 gpd of water compared to existing conditions (once operational). The proposed project is part of planned growth from build out of the General Plan. With implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply. Therefore, the project would not require or result in the expansion of the existing water conveyance system or the construction of new infrastructure.

⁸⁸ Water usage rates were calculated using CalEEMod Appendix D. CalEEMod. "Table 9.1: Water Use Rates." Accessed July 23, 2021. <http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixd.pdf>. The vehicular parking space water usages were not included in the calculation as parking spaces would not generate any water demand.

Wastewater

The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 85 percent of the total on-site water use. Implementation of the project would generate approximately 77,617 gpd of wastewater, a net increase of approximately 71,255 gpd of wastewater compared to existing conditions. The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. The proposed project could be served by the available capacity and would not result in the relocation or construction of sanitary sewer and wastewater treatment facilities.

Storm Drainage System

Under project conditions, the impervious surfaces on-site would have a net decrease of approximately 7,390 square feet when compared to existing conditions. All stormwater runoff generated on-site by the project would be treated with media filters and flow-through planters. Additionally, the project would be required to comply with the NPDES Municipal Regional Permit and all applicable plans, policies, and regulations for the treatment of stormwater. Therefore, implementation of the proposed project would have a less than significant impact on the City's storm drainage system such that no new or expanded facilities would be required.

Electric Power, Natural Gas, and Telecommunications

The project site is currently served by existing electrical and telecommunications services. While the project would intensify the development on-site, the demand for these resources would be satisfied by existing services and construction of new or expanded facilities would not be required.

Implementation of the proposed project would not result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities. **(Less Than Significant Impact)**

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

Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. Although the projected water demand would increase by 84,616 gpd, SJW concluded that the increase was already accounted for in SJW's 2015 UWMP. The General Plan FEIR (as amended) concluded that implementation of General Plan policies and existing regulations would substantially reduce demand for water generated by current and future development. With implementation of the CALGreen requirements and the City's Private Sector Green Building Policy, there would be sufficient water supplies available to serve the project and any reasonably foreseeable future development in the City. **(Less than Significant Impact)**

c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The proposed project would be served by the City's existing sanitary sewer system. The project would comply with all applicable Public Works requirements to ensure sanitary sewer lines would have capacity for sewer services required by the proposed project. The proposed project would dispose of wastewater at the Facility which has adequate capacity to accommodate the increased demand created by the project. Since the proposed development is part of planned growth from build out of the General Plan, the project would not exceed the City's allocated capacity at the Facility. Implementation of the project the Facility would have adequate capacity to serve the project's projected demand in addition to its existing commitments. **(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 generate approximately 1,569 pounds of solid waste per day⁸⁹, a net increase of 1,487 pounds per day, compared to the existing commercial uses. Based on the General Plan FEIR, build out of the General Plan could generate approximately 571,500 tons of solid waste per year. As mentioned previously, NISL had approximately 13.7 million cubic yards of capacity remaining in April 2021. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes at NISL, and the amount of waste the project is estimated to generate, there is sufficient capacity at NISL to serve the project. **(Less than Significant Impact)**

e) Would the project be noncompliant with federal, State, or local management and reduction statutes and regulations related to solid waste?

Consistent with CALGreen requirements, the proposed project would be required to provide on-site recycling capabilities, develop a construction waste management plan, divert at least 75 percent of non-hazardous construction and demolition debris through recycling, salvage and reuse or a combination of these methods (by weight), and implement other waste reduction measures. Additionally, the estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of State or local standards or in excess of NISL capacity. **(Less than Significant Impact)**

3.19.1.5 Cumulative Impacts

Would the project result in a cumulatively considerable contribution to a significant cumulative utilities and service systems impact?

The project's use of utilities and service systems was accounted for in General Plan as part of the planned growth of the City. When applicable, the General Plan identified the need for increased

⁸⁹ CalRecycle. "Estimated Solid Waste Generation Rates." Accessed July 23, 2021. <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>. Solid waste generation was estimated at a rate of five pounds per person per day for nursing/retirement home, 5.31 pounds per unit per day for multi-family units, and 2.5 pounds per 1,000 square feet per day for commercial retail.

services and infrastructure to support the planned growth of the City. The project, by itself, will have a less than significant impact on these resources and services. The proposed project, combined with future growth throughout the City of San José, would significantly increase the use/need for these resources and services, but would not result in a significant cumulative impact. Therefore, the project's contribution to the increased use of in any of these resource areas would not be considerable. **(Less Than Significant Cumulative Impact)**

3.20 WILDFIRE

3.20.1 Environmental Setting

3.20.1.1 *Regulatory Framework*

State

Fire Hazard Severity Zones

CAL FIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the State has financial responsibility for wildland fire protection, known as State responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section 4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

Fire Management Plans

CAL FIRE has developed an individual Unit Fire Management Plan for each of its 21 units and six contract counties. CAL FIRE has developed a strategic fire management plan for the Santa Clara County Unit, which covers the project area and addresses citizen and firefighter safety, watersheds and water, timber, wildlife and habitat (including rare and endangered species), unique areas (scenic, cultural, and historic), recreation, range, structures, and air quality. The plan includes stakeholder contributions and priorities and identifies strategic areas for pre-fire planning and fuel treatment as defined by the people who live and work with the local fire issues.

City of San José

San José Fire Department Wildland-Urban Interface Fire Conformance Policy

Buildings proposed to be built within the SJFD WUI shall comply with all WUI materials and construction methods per CBC Chapter 7A and CRC Section R337.⁹⁰ The applicant shall, prior to construction, provide sufficient detail to demonstrate that the building proposed to be built complies with this policy. Building Permit Plans are also to be approved by the SJFD.

3.20.1.2 *Existing Conditions*

The project site is located in fully urbanized San José and is far from the wildland urban interface. According to the Fire Hazard Severity Zone map prepared by the Fire and Resource Assessment Program, the project site is not located in a Fire Hazard Severity Zone⁹¹

3.20.1.3 *Impact Discussion*

For the purpose of determining the significance of the project's impact on wildfire, if located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan?
- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

⁹⁰ San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy*. January 1, 2017. Accessed August 30, 2021. <https://www.sanjoseca.gov/Home/ShowDocument?id=9345>.

⁹¹ CALFIRE. "FHSZ Viewer." Accessed September 5, 2021. <https://egis.fire.ca.gov/FHSZ/>.

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?
- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

3.20.1.4 *Project Impacts*

The project site is not located in or near State responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

3.20.1.5 *Cumulative Impacts*

The project site is not located in or near State responsibility areas or lands classified as very high fire hazard severity zones; therefore, Would the project result in cumulative wildfire impacts. **(No Cumulative Impact)**

SECTION 4.0 GROWTH-INDUCING IMPACTS

Would the project foster or stimulate significant economic or population growth in the surrounding environment?

For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local Envision San José 2040 General Plans).

The project is proposed on an infill site in the City of San José. As proposed, the project applicant would intensify the use of the site by constructing a mixed-use building consisting of 61 dwelling units with 6,000 square feet of ground floor retail and a 246-bed residential care facility. The proposed project is consistent with the existing General Plan land use designation and; therefore, the project would be consistent with growth projections. The site is surrounded by existing infrastructure and development. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

The project would place new residences and employees adjacent to existing retail and housing within the West San Carlos Urban Village Plan, an area designated for new housing and job growth consistent with the City's General Plan. The project would be compatible with the adjacent land uses and is part of planned growth in the City. For these reasons, the project would not have a significant growth inducing impact. **(Less than Significant Impact)**

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address “significant irreversible environmental changes which would be involved in the proposed project, should it be implemented.” [§15126(c)]

The proposed project would redevelop a currently developed site with an urbanized area of San José.

Future development on-site would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants would use non-renewable fuels to heat and light the buildings. The proposed project would also result in an increase in water demand.

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. The new buildings would be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed consistent with the requirements of the City of San José Green Building Ordinance and would be designed to achieve LEED Silver certification. In addition, the site provides an increase in housing and jobs that is in close proximity to transportation networks than housing and jobs farther away. For these reasons, the project would not result in significant and irreversible environmental changes to the project site.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following significant unavoidable impacts have been identified as a result of the project:

- **Cultural Resources:** The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José Historic Resources Inventory as Candidate City Landmarks. Demolition of these buildings would result in a significant unavoidable impact.
- **Cumulative Cultural Resources:** Demolition of the structures at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, which are eligible as Candidate City Landmarks, would constitute a cumulatively considerable impact to the historic structures associated with the Burbank community.

SECTION 7.0 ALTERNATIVES

7.1 OVERVIEW

The California Environmental Quality Act (CEQA) requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

Section 15126.6(a). Consideration and Discussion of Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Section 15126.6(b). Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

7.2 PROJECT OBJECTIVES

While CEQA does not require that alternatives be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration. The objectives of the proposed project are to:

1. Provide a project that meets the strategies and goals of the Envision San José 2040 General Plan and the City of San José West San Carlos Urban Village Plan by increasing employment and residential capacities.
2. Provide housing that responds to the needs of the community including seniors and families in keeping with the Envision San José 2040 General Plan policies for social equity and diversity and the development of multi-generational housing.
3. Support San José's Environmental Stewardship goals by providing a modern LEED building with sustainable energy and water usage, natural ventilation, and electric vehicle (EV) parking.
4. Create a senior care facility and ground floor retail to emphasize economic development within the City to support San José's growth as a center of innovation and regional employment. Growing San José's role as an employment center; increase utilization of the regional transit systems and supporting the City's fiscal health.
5. Promote the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth activity to an innovative workforce and consistent with the General Plan's environmental goals.
6. Intensify an existing low-density land use into high-density, mixed-use urban commercial and residential per the Urban Village Plan.
7. Provide bicycle parking for residents to help support the goals of the Envision San José 2040 General Plan.
8. Per the West San Carlos Urban Village Plan, create "new commercial and mixed uses to enhance the circulation within the village", to reflect Goal UD-1 and UD-3.3 by creating active retail on the ground floor uses along West San Carlos Street.

7.3 SIGNIFICANT IMPACTS FROM THE PROJECT

The CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project and would achieve most of the project objectives. Impacts that would be significant include:

- **Air Quality:** Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess of BAAQMD threshold of 10 cases per one million for infants.
- **Biological Resources:** Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would constitute a significant impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800.
- **Cultural Resources:** The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José Historic Resources Inventory as

Candidate City Landmarks. Demolition of these buildings would result in a significant unavoidable impact.

- **Cumulative Cultural Resources:** Demolition of the structures at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street, which are eligible as Candidate City Landmarks, would constitute a cumulatively considerable impact to the historic structures associated with the Burbank community.
- **Noise and Vibration:** Construction noise would exceed ambient levels by 5.0 dBA or more for a period of more than one year.
- **Noise and Vibration:** Construction vibration levels would exceed the 0.08 in/sec PPV threshold for nearby historical buildings located within 55 feet of the project site.
- **Transportation:** The proposed project would exceed the vehicle miles traveled (VMT) per the employee threshold of 12.21 by 5.2 percent

7.4 ALTERNATIVES

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a), *italics added*.) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (Mira Mar, *supra*, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

The City of San José considered the following alternatives to the proposed project:

- Location Alternative
- Preservation Alternative 1 – Relocation and Preservation of Historic Resources Off-Site
- No Project
- Preservation Alternative 2 – Preservation of Historic Resources On-Site
- Preservation Alternative 3 – Preservation of 1891-1895 West San Carlos Street Building On-Site
- Preservation Alternative 4 – Preservation of 1883-1887 West San Carlos Street Building On-Site

7.4.1 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and case law on the subject have found that feasibility can be based on a wide range of factors and influences. The Guidelines advise that such factors *can* include (but are not necessarily limited to) the suitability of an alternate site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire, control or otherwise have access to the alternative site" [Section 15126.6(f)(1)].

7.4.2 Project Alternatives

7.4.2.1 *Considered & Rejected*

Location Alternative

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is “whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location”.⁹² The project proposes to construct a mixed-use building with a senior care component and a condominium component on an approximately 1.23-acre site within the West San Carlos Urban Village Growth area. The alternative location should be large enough to support the proposed development and be located within the West San Carlos Urban Village. There are properties in proximity to the site within the Urban Village that could be redeveloped (refer to Figure 2.1-5).

These sites would have structures over 50 years old. Due to the size of the project and existing land uses in the area, construction-related impacts would be the same in any location within the West San Carlos Urban Village. The project applicant does not own or have control of the alternative locations in the project area; therefore, this alternative was considered but rejected.

Preservation Alternative 1 – Relocation and Preservation of Historic Resources Off-Site

Historic buildings can be relocated in many circumstances, depending on structural condition, building materials, location, and the availability of a receiver site. As proposed, this alternative would relocate the buildings at 1883-1887 West San Carlos Street (Building 1) and 1891-1895 West San Carlos Street (Building 2) off-site and construct a mixed-use building with a senior care component and a condominium component as proposed. The area identified for potential relocation sites is the West San Carlos Urban Village to retain the relationship of the buildings to the neighborhood and West San Carlos Street.

Building 1 totals 6,914 square feet and Building 2 totals 10,736 square feet. The lots identified for relocation would need to be large enough to accommodate each building. The buildings could be relocated to the same lot or separate lots. Given the current location of the buildings, they would need to be oriented toward West San Carlos Street and preferably placed mid-block.

Within the West San Carlos Urban Village, there are no vacant parcels of land. Only a limited number of parcels with the Urban Village have recent construction, and many parcels have buildings which are 50 years old or more. As such, some lots could contain other potential historic resources and would not be a viable option for relocation. Relocation of these buildings would require acquisition of an existing developed lot which does not contain a historic or potentially historic structure. Demolition of any existing building(s) to facilitate relocation of Buildings 1 and 2 would cause displacement of existing land uses.

Lastly, the applicant hired a broker to determine the availability of land to relocate the buildings, but the broker was unable to find a viable receiver site for either of the structures within the Urban Village. For these reasons, this alternative was not considered further.

⁹² CEQA Guidelines Section 15126.6(f)(2)(A)

7.4.2.2 *No Project*

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a “No Project” alternative, which shall address both “the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services.”

The No Project Alternative would retain the existing land uses on-site. If allowed to remain as is, there would be no impacts compared to the proposed project and the significant impacts identified for the project related to air quality, cultural resources, noise and vibration, and transportation would not occur. This alternative would not meet any of the project objectives. Additionally, the City would lose this opportunity to redevelop an underutilized site to meet the strategies and goals of the City’s General Plan and the West San Carlos Urban Village Plan.

The project site is designated *Mixed Use Commercial* under the City’s General Plan which is intended to accommodate a mix of commercial and residential uses and has two zoning designations. The property at 1881 West San Carlos is located in the *CP Commercial Pedestrian* Zoning District and the property at 17 Boston Street is zoned *R-M Multiple Residence* Zoning District. The remainder of the site has no designated zoning as it is currently unincorporated. The *CP Commercial Pedestrian* Zoning District is intended to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the general plan related to Neighborhood Business Districts. The *CP Commercial Pedestrian* Zoning District also encourages mixed residential/commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages.

It is possible that in the future an alternative development proposal, such as another mixed-use building complex, may be presented for the project site. Another mixed-use development could be comparable in density and scale to what is currently proposed or larger, assuming that any proposal would try to maximize the development allowed on-site consistent with the development anticipated in the area. Any future development proposals for the site would require review, annexation through LAFCO, and rezoning of all parcels similar to the proposed project.

7.4.2.3 *Preservation Alternatives*

Preservation Alternative 2 – Preservation of Historic Resources On-Site

Under Preservation Alternative 2, Buildings 1 and 2 (totaling 10,738 square feet) would be retained on-site. Building 1 would be used as retail space while Building 2 would be retail and office space. The two historic resources that would be preserved on-site would be required to be maintained and reused in an appropriate manner consistent with applicable standards to maintain their historic significance. A site layout of the project with retention of the two historic buildings is shown in Figure 7.4-1.

Under this alternative, the proposed senior care component would have the same height and massing and have the same number of units as the proposed project. The proposed residential units of the condominium component would be reduced from 61 units to 20 units (refer to Figure 7.4-1).

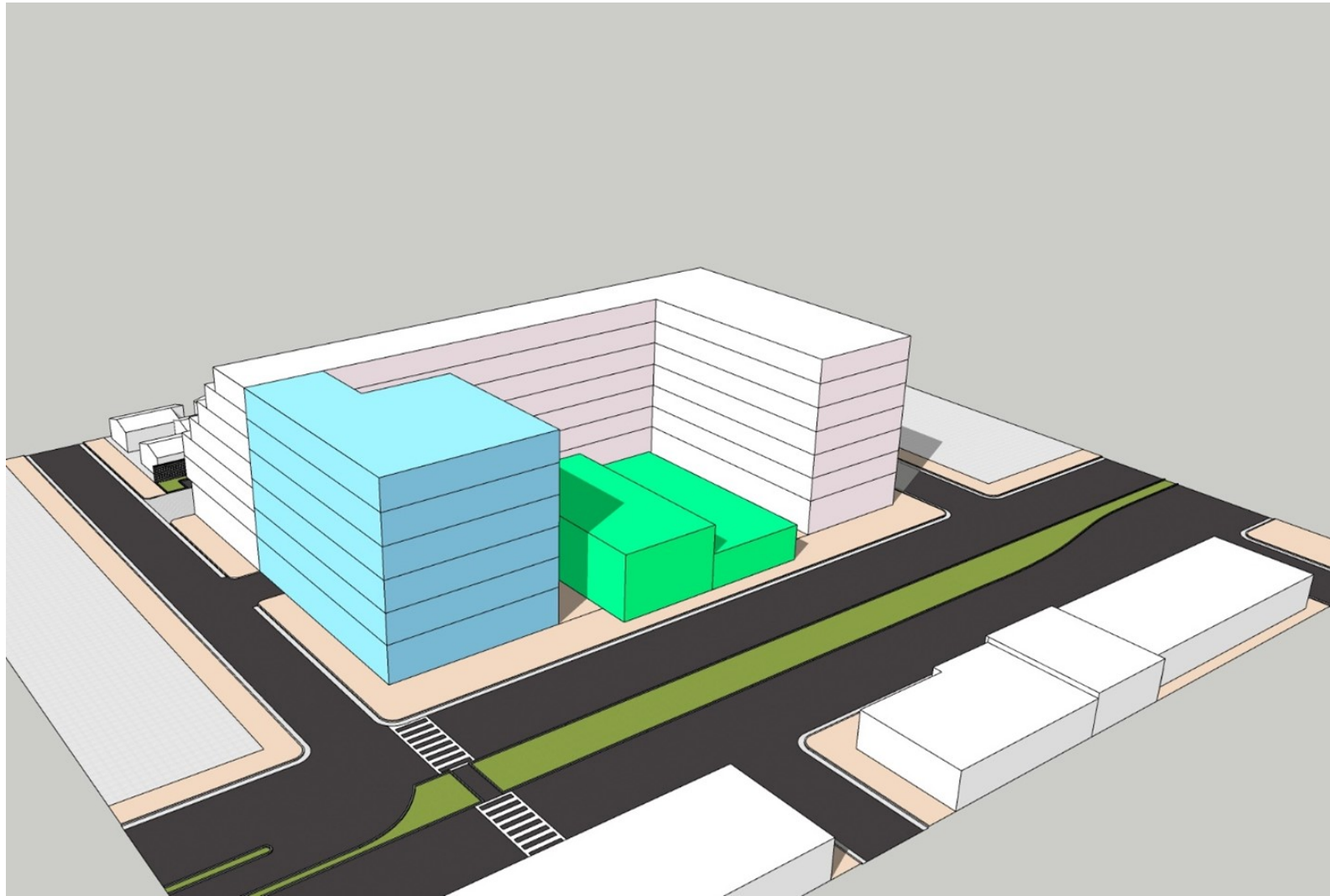
Preservation of both historic structures would result in a less than significant project-level and cumulative cultural resources impact when compared to the proposed project. All other impacts would remain the same and this alternative would be required to implement all mitigation measures (AIR-1.1, BIO-1.1, NOI-1.1, NOI-2.1, and TRANS-1.1), Standard Permit Conditions, and Conditions of Approval identified for the proposed project. Therefore, the impacts to air quality, biological resources, noise, and transportation would be reduced to a less than significant level. Preservation Alternative 2 would meet almost all project objectives except objectives 1 and 6. As mentioned above, the proposed residential units would be reduced from 61 units to 20 units (a loss of 41 residential units). While this alternative would slightly increase residential capacity on-site, it would not intensify the land use to a high-density, mixed-use project compared to the proposed project.

Preservation Alternative 3 – Preservation of 1891-1895 West San Carlos Street Building On-Site

Under Preservation Alternative 3, Building 2 (totaling approximately 6,914 square feet) would be retained on-site while Building 1 would be demolished. As mentioned above, any historic resources that would be preserved on-site would be required to be maintained and reused in an appropriate manner. Similar to Preservation Alternative 2, the proposed senior care component would have the same height and massing and have the same number of units as the proposed project. Under this alternative, the proposed condominium component would be split into two with Building 2 located in between (refer to Figure 7.4-2). One of the condominium buildings would consist of 20 residential units while the other building would consist of 10 units. While preservation of Building 2 would reduce the impact to less than significant for that structure, demolition of Building 1 would still have a significant unavoidable project-level and cumulative cultural resources impact. All other impacts would remain the same and this alternative would be required to implement all mitigation measures (AIR-1.1, BIO-1.1, NOI-1.1, NOI-2.1, and TRANS-1.1), Standard Permit Conditions, and Conditions of Approval identified for the proposed project. Therefore, the impacts to air quality, biological resources, noise, and transportation would be reduced to a less than significant level. Preservation Alternative 3 would meet almost all project objectives except objectives 1 and 6. The proposed residential units would be reduced from 61 units to 30 units (a loss of 31 residential units). Similar to Preservation Alternative 2, while this alternative would slightly increase residential capacity on-site, it would not intensify the land use to a high-density, mixed-use project compared to the proposed project.

Preservation Alternative 4 – Preservation of 1883-1887 West San Carlos Street Building On-Site

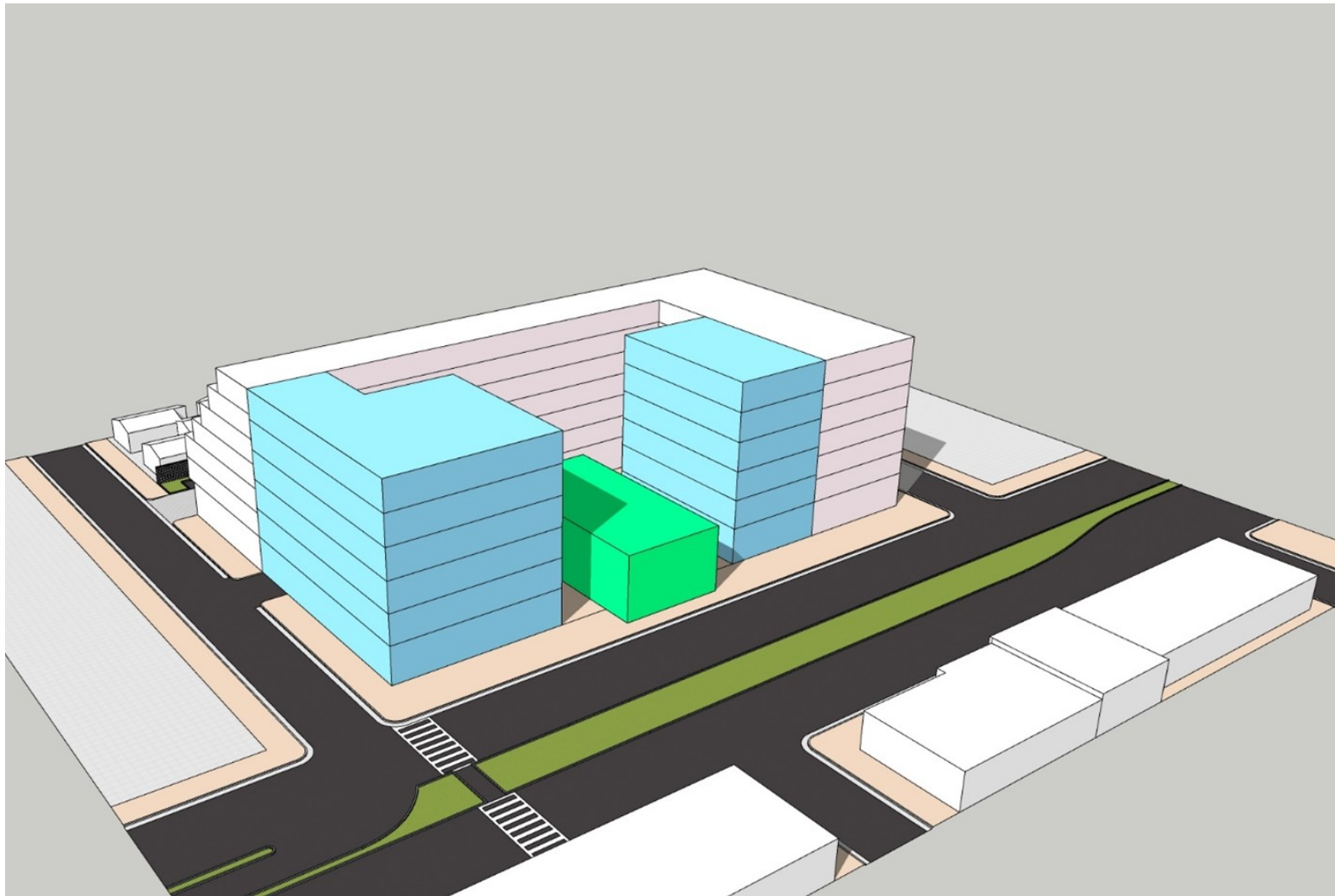
Under Preservation Alternative 4, Building 1 (approximately 3,824 square feet) would be retained on-site (refer to Figure 7.4-3). Similar to Preservation Alternatives 2 and 3, the proposed senior care component would have the same height and massing and have the same number of units as the proposed project. Under this alternative, an additional 2,176 square feet of ground floor retail space would be proposed for a total of 6,000 square feet of retail space. The residential units of the proposed condominium component would be reduced from 61 units to 35 units. While preservation of Building 1 would reduce the impact to less than significant for that structure, demolition of Building 2 would still have a significant unavoidable project-level and cumulative cultural resources impact.



Source: Salvatore Caruso Design Corporation, December 15, 2021

PRESERVATION ALTERNATIVE 2 – PRESERVATION OF HISTORIC RESOURCES ON-SITE

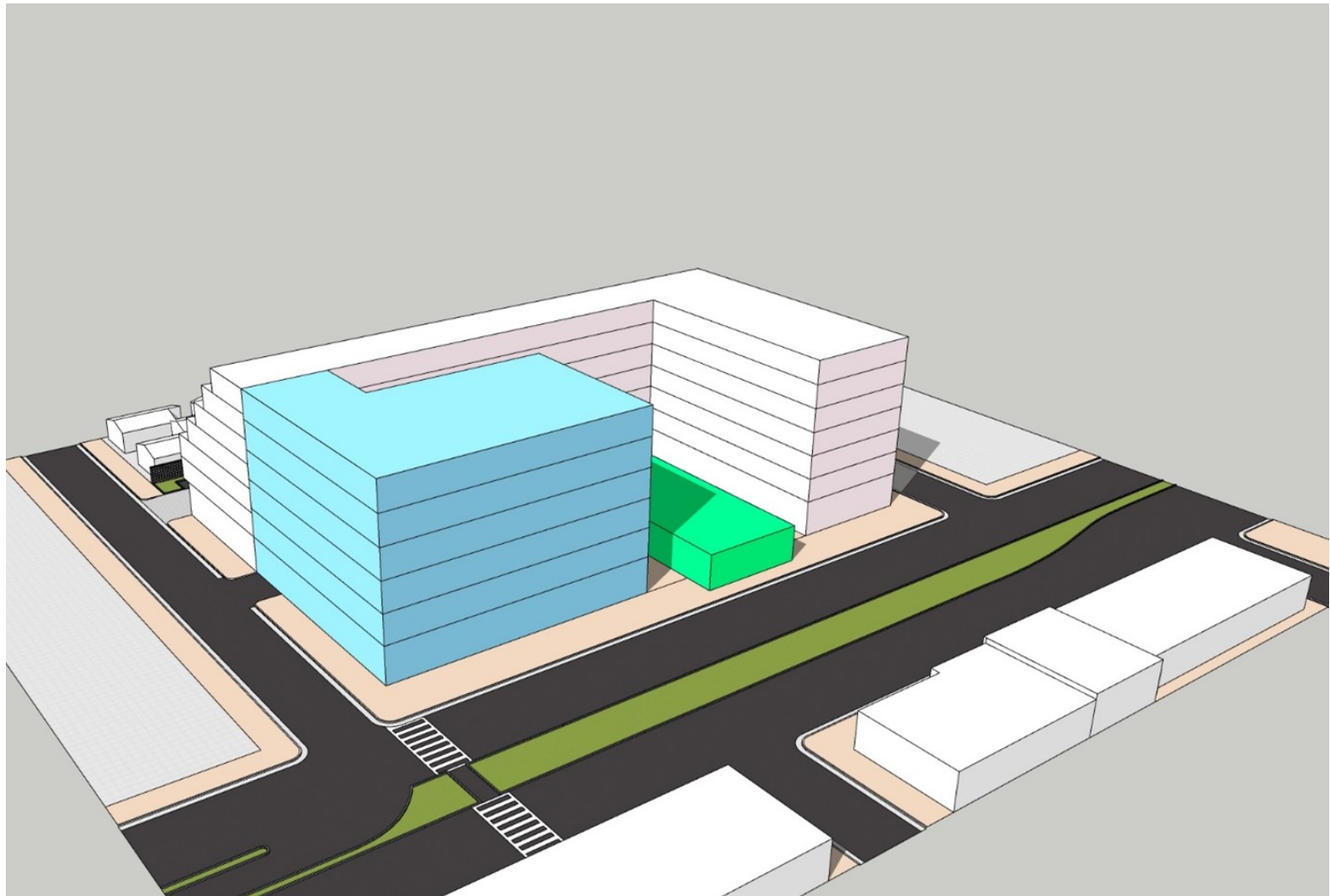
FIGURE 7.4-1



Source: Salvatore Caruso Design Corporation, December 15, 2021

PRESERVATION ALTERNATIVE 3 – PRESERVATION OF 1891-1895 WEST SAN CARLOS STREET BUILDING ON-SITE

FIGURE 7.4-2



Source: Salvatore Caruso Design Corporation, December 15, 2021

PRESERVATION ALTERNATIVE 4 – PRESERVATION OF 1883-1887 WEST SAN CARLOS STREET BUILDING ON-SITE

FIGURE 7.4-3

All other impacts would remain the same and this alternative would be required to implement all mitigation measures (AIR-1.1, BIO-1.1, NOI-1.1, NOI-2.1, and TRANS-1.1), Standard Permit Conditions, and Conditions of Approval identified for the proposed project. Therefore, the impacts to air quality, biological resources, noise, and transportation would be reduced to a less than significant level. Similar to Preservation Alternatives 2 and 3, Preservation Alternative 4 would meet almost all project objectives except objectives 1 and 6. The proposed residential units would be reduced from 61 units to 35 units (a loss of 26 residential units). While this alternative would slightly increase residential capacity on-site, it would not intensify the land use to a high-density, mixed-use project compared to the proposed project.

7.4.3 Comparison of Environmental Impacts for Alternatives to the Project

A comparison of alternatives based upon whether they avoid or substantially lessen the significant environmental effects is shown in the table below.

| Table 7.4-1: Alternatives Comparison Table | | | | | | | |
|---|------------------|----------------------|------------------------|---------------------------|------|------|------|
| Significant Project Impacts | Proposed Project | Location Alternative | No Project Alternative | Preservation Alternatives | | | |
| | | | | 1 | 2 | 3 | 4 |
| Construction activities associated with the proposed project would expose the project's off-site maximum exposed individual (MEI) to cancer risk in excess of BAAQMD threshold of 10 cases per one million for infants. | LTSM | LTSM | NI | LTSM | LTSM | LTSM | LTSM |
| Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would constitute a significant | LTSM | LTSM | LTSM | LTSM | LTSM | LTSM | LTSM |

| Table 7.4-1: Alternatives Comparison Table | | | | | | | |
|---|------------------|----------------------|------------------------|---------------------------|------|------|------|
| Significant Project Impacts | Proposed Project | Location Alternative | No Project Alternative | Preservation Alternatives | | | |
| | | | | 1 | 2 | 3 | 4 |
| impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800. | | | | | | | |
| The buildings at 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street are eligible for listing in the San José Historic Resources Inventory as Candidate City Landmarks. Demolition of these buildings would result in a significant impact. | SU | SU | NI | LTSM | LTSM | SU | SU |
| Demolition of the 1883-1887 West San Carlos Street and 1891-1895 West San Carlos Street structures, Candidate City Landmarks, would constitute a cumulatively considerable impact to the historic structures associated with the Burbank community. | SU | SU | NI | LTSM | LTSM | SU | SU |
| Construction noise would exceed ambient levels by 5.0 | LTSM | LTSM | NI | LTSM | LTSM | LTSM | LTSM |

| Table 7.4-1: Alternatives Comparison Table | | | | | | | |
|--|------------------|----------------------|------------------------|---------------------------|------|------|------|
| Significant Project Impacts | Proposed Project | Location Alternative | No Project Alternative | Preservation Alternatives | | | |
| | | | | 1 | 2 | 3 | 4 |
| dBa or more for a period of more than one year. | | | | | | | |
| Construction vibration levels would exceed the 0.08 in/sec PPV threshold for nearby historical buildings within 55 feet of the project site. | LTSM | LTSM | NI | LTSM | LTSM | LTSM | LTSM |
| The proposed project would exceed the vehicle miles traveled (VMT) per the employee threshold of 12.21 by 5.2 percent | LTSM | LTSM | NI | LTSM | LTSM | LTSM | LTSM |
| NI – No Impact LTS – Less Than Significant Impact LTSM – Less Than Significant Impact with Mitigation SU – Significant Unavoidable | | | | | | | |

7.4.4 Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. If the environmentally superior alternative is the “No Project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (Section 15126.6(e)(2)).

The No Project Alternative would avoid all project impacts, including the significant and unavoidable impact to a potential historic resource of significance to the City of San José. However, as explained above, when the No Project Alternative is the environmentally superior alternative, the EIR shall identify another environmentally superior alternative. Beyond the No Project Alternative, Preservation Alternative 2 would be the environmentally superior alternative.

Preservation Alternative 2 would preserve both historic structures on-site and would not result in a significant project-level and cumulative impacts to cultural resources. In addition, this alternative would meet all project objectives except objectives 1 and 6. As mentioned previously, any historic structures that would be preserved on-site would be required to be maintained and reused in an appropriate manner. As discussed above, while the number of senior care beds would not change, this alternative would result in 20 dwelling units compared to 61 dwelling units under the proposed project.

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SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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