Draft EIR

Wat Khmer Kampuchea Krom Buddhist Temple

SCH# 2021050524

Prepared by

CITY OF SAN JOSE

CAPITAL OF SILICON VALLEY

In Consultation with

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ENVIRONMENTAL CONSULTANTS & PLANNERS

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EXECUTIVE SUMMARY

The project site is located at 2740 Ruby Avenue at the northeast corner of Ruby Avenue and Norwood Avenue, in the Evergreen community in southeastern San José, California. The site is currently vacant. The project applicant proposes to construct an approximately 13,902-square foot Wat Khmer Kampuchea Krom Buddhist Temple on the approximately 1.86-gross acre site. 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, Impacts, and Mitigation*.

Significant Impacts	Mitigation and Avoidance Measures
Air Quality	
Impact AIR-1: The construction of the proposed project would result in nearby sensitive receptors being exposed to toxic air contaminant emissions of 77.22 cases per million people and 1.45 $\mu g/m^3$, which is in excess of BAAQMD threshold for cancer risk and annual $PM_{2.5}$ of 10 cases per million people and 0.3 $\mu g/m^3$ respectively.	**MM-AIR-1.1:** Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement Department or Director's designee that includes specifications of the equipment to be used during construction and that outlines how the mitigation measure shall be achieved. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below. All diesel-powered off-road equipment (larger than 25 horsepower) operating on-site for more than two days continuously (or 20 hours total) shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter. If this is not feasible, the following measures would apply: o If Tier 4 equipment is not commercially available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall 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 achieves an 88 percent reduction in particulate matter exhaust. o Provide line power to the site to minimize the use of diesel-powered stationary equipment, such as generators.

	○ Stationary cranes shall be powered by electricity. ○ Install electric line power during early construction phases to avoid use of diesel portable equipment, such as air compressors, concrete saws, and welders.
Biological Resources	
Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on or near the site at the time of construction.	**MM BIO-1.1:** The project applicant shall schedule any construction activities, including tree removals, to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code

	Enforcement Department or Director's designee.
Hazardous Materials	
Impact HAZ-1: Development of the proposed project could result in impacts to construction workers, neighboring properties, future site occupants and the environment from exposure to hazardous soil containing pesticides from prior land uses.	**MM HAZ-1.1:** Prior to issuance of any grading permits, the project applicant shall complete a site cleanup program with an oversight agency such as Santa Clara County Department of Environmental Health (SCCDEH), or equivalent (i.e. Department of Toxic Substance Control [DTSC]). The applicant shall meet with the oversight agency and may be required to perform additional soil, soil gas and/or groundwater sampling and testing to adequately define the known and suspected contamination from past agricultural use and any other past uses of concern. A Site Management Plan (SMP), Corrective Action Plan, Remedial Action Plan, or other equivalent plan shall be prepared and submitted to the SCCDEH for their approval. The Plan shall include a Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.
Noise	
Impact NOI-1: Construction noise levels would potentially exceed the General Plan thresholds and result in substantial noise generation at adjacent conventional buildings within 25 feet of the project site for more than 12 months.	**MM-NOI-1.1:** Construction-related Noise: Noise minimization measures include, but are not limited to, the following: • Pursuant to General Plan Policy EC-1.7, project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following: o Pile driving is prohibited. o Limit construction to the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning,

	Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. o Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses. o Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. o Prohibit unnecessary idling of internal combustion engines. o Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to scree stationary noise-generating equipment when located near adjoining sensitive land uses. o Utilize "quiet" are compressors and other stationary noise sources where technology exists. o Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site. o Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences. o If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. o Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to current the problem. Conspicuously post a

	telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. Prior to issuance of any grading, building or demolition permits, the project applicant shall submit a copy of the noise logistic plan to the Director of Planning, Building and Code Enforcement. Documentation showing compliance with noise logistic plan shall be provided to the Director of Planning, Building and Code Enforcement monthly during the construction phase.
Impact NOI-2: Construction vibration levels would exceed the General Plan threshold of 0.2 in/sec PPV for adjacent conventional buildings within 25 feet of the project site.	**MM-NOI-2.1:** Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions prior to, during, and after vibration generating construction activities. The plan 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 vibration monitoring, treatment, and reporting plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval. As part of the construction vibration monitoring, treatment, and reporting plan, construction activities for the proposed project shall include, but are not limited to, the following measures: • The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations. • A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall

	be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. The contractor shall phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period. • Prohibit pile driving. • Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building. • Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits. • At a minimum, vibration monitoring shall be conducted during demolition and excavation activities. • If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the 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-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. The survey shall be submitted

	to the Director of the Department of Planning, Building, and Code Enforcement.

Summary of Alternatives to the Proposed Development 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*.

No-Project – No Development Alternative

The No Project – No Development Alternative would retain the existing land uses on-site as is, a vacant site with numerous trees and an impervious driveway. If the project site were to remain undeveloped as is, the significant impacts resulting during construction and operation of the proposed project would not occur.

It is possible that in the future an alternative development proposal, such as a residential development, may be presented for the project site. Any future development proposals for the site would likely maximize allowable development and result in similar impacts to the proposed development project.

No Project – Redevelopment with Currently Allowed Uses

Given that the project site is located within the incorporated limits of San José, served by existing utilities, and has a Residential Neighborhood General Plan land use designation, it is not realistic to assume the project site would remain undeveloped in perpetuity if the proposed project is not approved. In fact, the project site was developed with housing as recently as 2020, when the existing structures were removed. Therefore, if the proposed project is not implemented, it is reasonable to assume the project site would be developed consistent with existing plans and policies applicable to the site and considering available infrastructure. Any future proposals for the site would require review and approval by the City of San José.

The Residential Neighborhood General Plan land use designation allows eight detached homes per acre, which for the subject 1.86 acre site would allow for up to 14 lots with each lot capable of accommodating a single-family detached (SFD) unit and potentially an accessory dwelling unit (ADU).

The subdivision of the site into up to 14 lots and the construction of up to 14 SFD units with combined building square footage of between 21,000 to 35,000 square feet (not factoring in potential ADUs) would result in similar construction air quality impacts and construction noise during construction, because similar parts of the site would require clearing and preparation and the scale of construction would be similar. The biological resource impacts would not be substantially different because the trees and nesting bird species would still be potentially impacted. A potential SFD

subdivision of up to 14 units could be screened out as a Small Infill Development project of less than 15 units. Therefore, alternative development on site would not result in significantly different transportation impacts.

Other potential principally permitted development alternatives on the project site could include an alternative community serving use such as a public school (elementary or secondary), public museum, library, or community center, although the feasibility of accommodating some of those uses, e.g. a school, on a 1.86 acre site is unknown. If privately operated, these facilities would require conditional use authorization from the City's Planning Commission. Therefore, these alternative development options would result in in similar construction and operational impacts as the proposed project.

Operational Adjustment Alternative

The Operational Adjustment Alternative would implement changes in the non-essential operations of the proposed project to reduce impacts associated with the proposed project. The proposed project objectives include providing religious services for local observers. The two proposed activities which do not directly serve religious services are the flower fundraiser and wedding receptions on-site. These are secondary uses that would help provide revenues to fund temple operations and therefore would not likely be eliminated altogether.

These activities are identified to produce approximately 150 visitors on average, which would increase traffic around the site, similar to other planned events. A reduction of activities at the site would reduce the frequency of on-site event noise and traffic generated by attendees. Additionally, the changes in operations could move certain temple events to alternative portions of the site, such as relocating certain ceremonies inside the on-site buildings, to potentially reduce already less than significant noise impacts on surrounding residential uses.

Areas of Public Controversy

Areas of public concern include:

- Aesthetics
- Building height and setbacks
- Parking

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 Wat Khmer Kampuchea Krom Buddhist Temple Project (proposed project) in compliance with the California Environmental Quality Act (CEQA).

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). As the CEQA Lead Agency for this project, the City of San José is required to consider the information in the EIR along with any other available information in deciding whether to approve the project. The basic requirements for an EIR include discussions of the environmental setting, 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 EIR. The NOP was circulated to local, state, and federal agencies on May 24, 2021. The standard 30-day comment period concluded on June 24, 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 public scoping meeting on June 2, 2021 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held electronically via Zoom. Appendix A of this EIR includes the NOP and comments received on the NOP. The primary concerns raised during the scoping meeting and in the comment letters received during the NOP public circulation process are compatibility with the existing neighborhoods, scale, transportation, safety, and noise.

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. A Notice of Availability /Notice of 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:

Cort Hitchens
City of San José
Department of Planning, Building & Code Enforcement
200 East Santa Clara Street
San José, CA 95113
Cort.Hitchens@sanjoseca.gov

1.2.3 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.

1.2.4 Notice of Determination

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office 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

2.1 PROJECT LOCATION

The project site is located at 2740 Ruby Avenue at the northeast corner of Ruby Avenue and Norwood Avenue, in the Evergreen community in southeastern San José, California. The site is currently vacant. Surrounding land uses consist of residential neighborhood. The location of the site and surrounding uses are shown on the following exhibits (see Figures 2.1-1, 2.1-2, 2.1-3).
The site is bounded by Ruby Avenue to the west, Norwood Avenue to the south, and residential properties on other sides. The area surrounding the project site is a predominately suburban neighborhood which features one- to two-story single family homes featuring mission style architecture and a variety of other design styles.

2.2 PROJECT DESCRIPTION

2.2.1 Existing Site

The approximately 1.86-acre project site is comprised of a single parcel (which corresponds to APN 652-29-014) and is designated *RN - Residential Neighborhood* in the Envision San José 2040 General Plan, and is currently zoned *R-1-*5 *Zoning District*. The site surrounds an existing single-family residence on three sides – the existing residence (2720 Ruby Avenue) has frontage on Ruby Avenue and is not included in the project. The project site's street frontages on both Ruby and Norwood Avenues are unimproved.

The project site is currently vacant but was previously developed with a single-family residence and contained several aging agricultural-related accessory structures (barns, sheds, etc.). All the structures were removed in 2020. The site varies in elevation from 274 to 289 feet above sea level, and therefore features approximately 15 feet of elevation change across the site, with the higher elevations along the eastern portion of the site sloping to the west. The site features sparse ground vegetation with 20 on-site trees. The utilities around the site include eight-inch sewer lines located in Ruby Avenue and Norwood Avenue, 42-inch and 66-inch stormwater lines in Ruby Avenue and Norwood Avenue, and water lines located under surrounding streets.

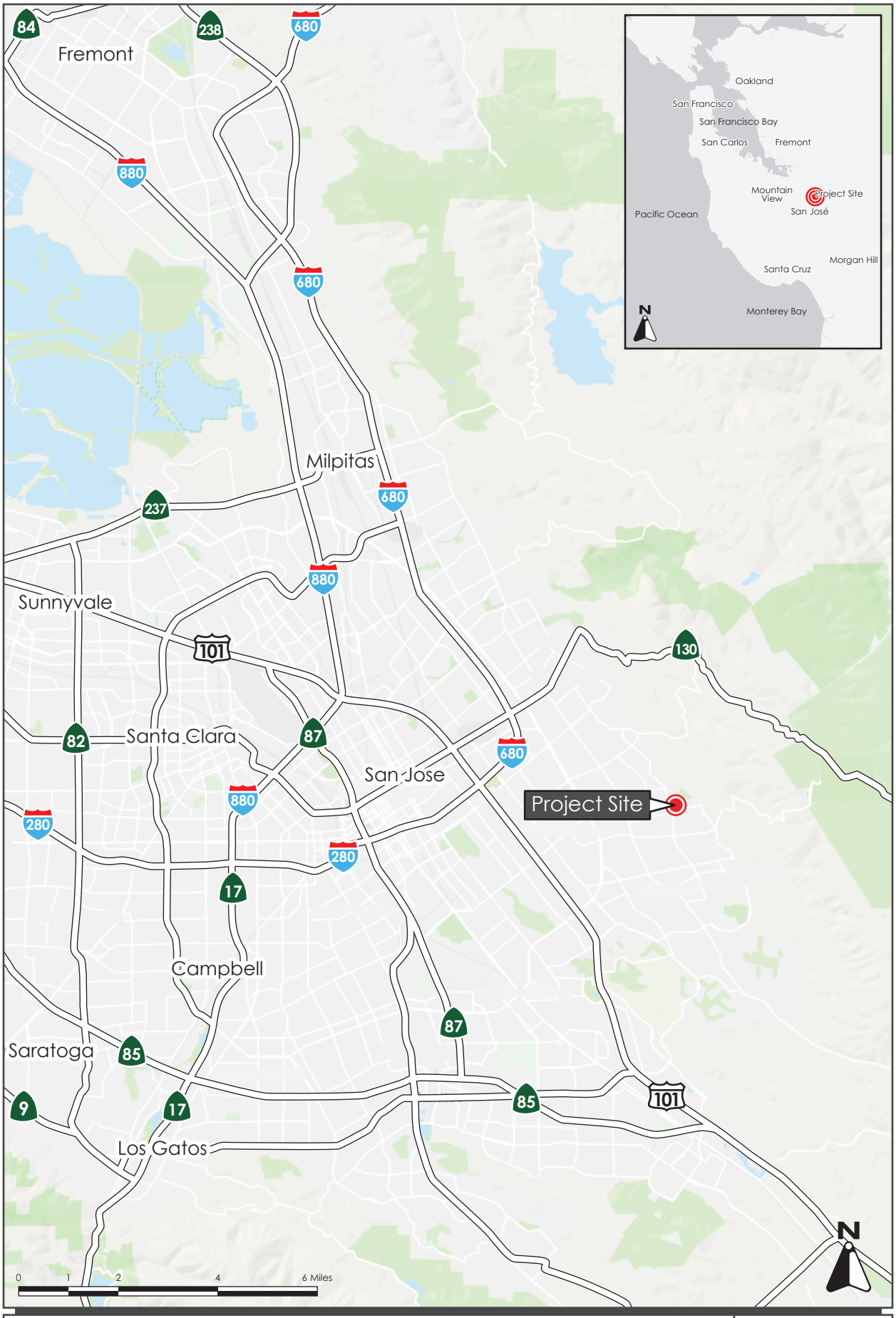
2.2.2 Proposed Project

The project applicant proposes to construct an approximately 13,902-square foot Wat Khmer Kampuchea Krom Buddhist Temple on the approximately 1.86-gross acre site. The applicant is proposing a rezoning of the project site from the *R-1-5 Zoning District* to the *PQP Public/ Quasi-Public* Zoning District to allow for the construction of a religious assembly use to serve the existing local Khmer Krom religious community, whose current temple functions out of a converted residence at a different site in San José. These operations would be discontinued and moved to the new location. The *Public/Quasi-Public* Zoning District allows church/religious assembly uses upon issuance of a special use permit.

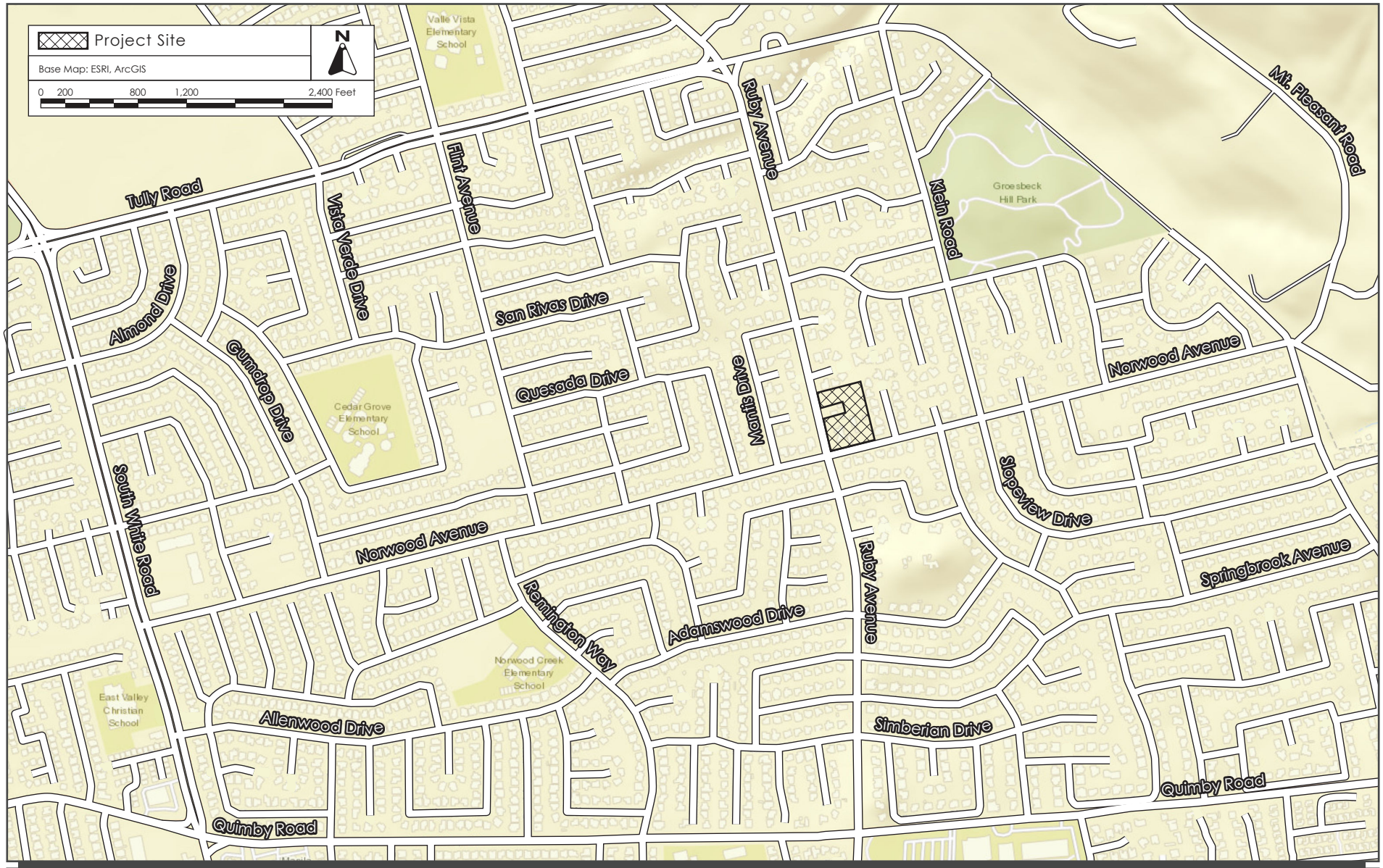
The proposed project would comprise of two buildings – a Temple Sanctuary building and a Community building – each set on either side of a main central courtyard (See Figure 2.1-4). A surface parking lot with 67 parking spaces (including valet) would be located at the interior of the lot with an entry drive located along Ruby Avenue. The main courtyard would serve as the pedestrian

entry point for all Temple visitors via two ceremonial entry gates, one at each side which represent the formal entry to the Temple. The south gate would provide access directly from the sidewalk on Norwood Avenue while the north gate would provide access from the parking lot at the interior of the site. The project would also provide new buffer landscaping on the perimeter of the site, including new street trees. A six-foot-tall masonry sound screen wall would be constructed at the property lines which are shared with the backyards of neighbors on Pin Oak Court and on Sweetleaf Court. The project includes a 12-foot-wide sidewalk with tree wells along its frontage on Ruby Avenue and a 10-foot-wide sidewalk with tree wells on Norwood Avenue.

The proposed project would also construct roadway improvements including a roundabout in the intersection of Norwood Avenue and Ruby Avenue and features leading into the intersection, which would be constructed within existing right-of-way. This roundabout would modify traffic operations at the intersection and would require the construction of a concrete traffic circle in the center of the intersection. The project applicant would pay for 25 percent of the intersection improvements and would be compensated for the other 75 percent of the costs by the City of San José. The proposed project also includes upgrades the existing electrical service on site to 800 amp lines and would otherwise connect to existing utilities surrounding the site.



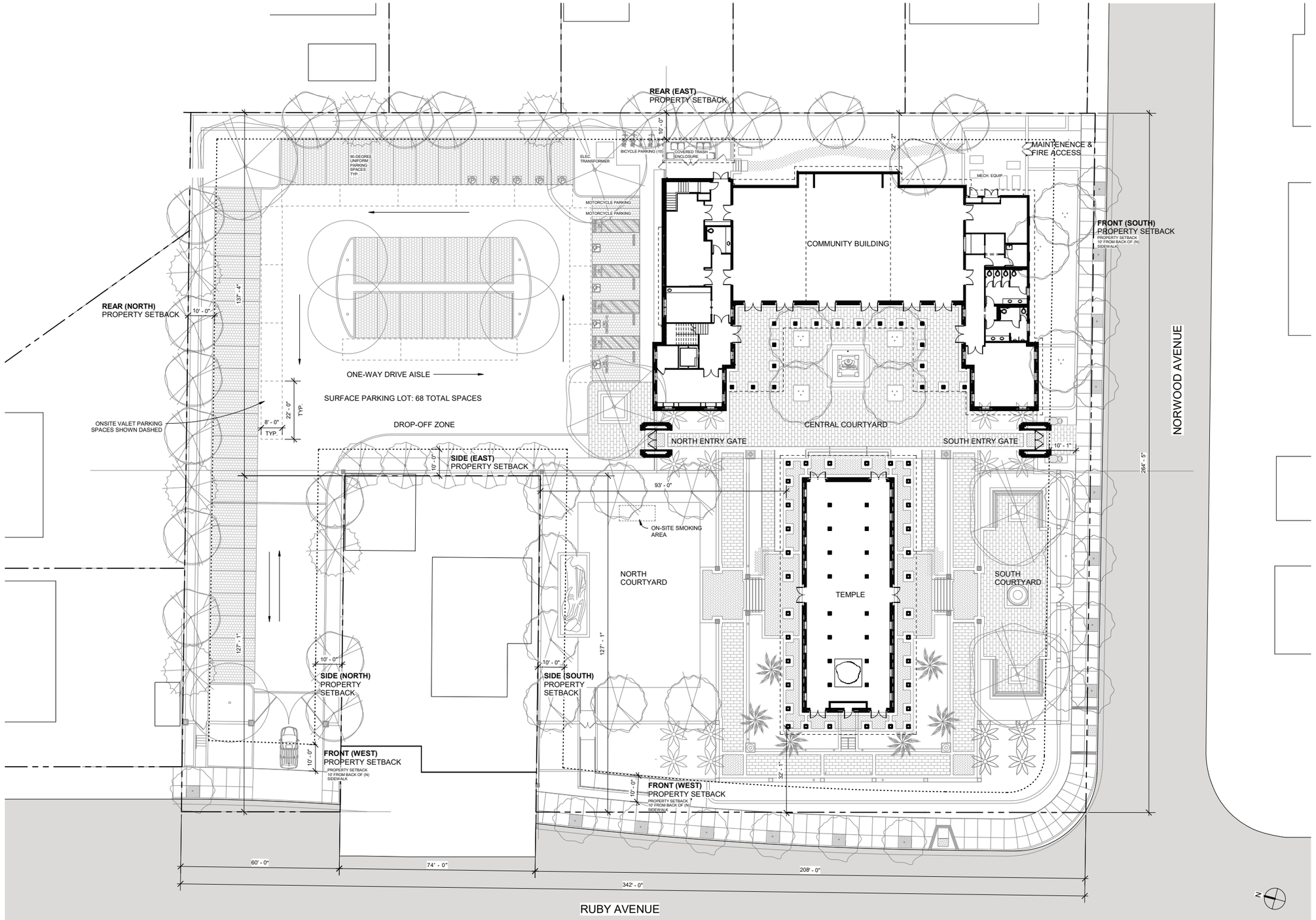
REGIONAL MAP | FIGURE 2.1-1



VICINITY MAP

FIGURE 2.1-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.1-3



Source: Andrew Mann Architecture, October 19, 2021.

CONCEPTUAL SITE PLAN

FIGURE 2.1-4

2.2.3 Buildings

The two proposed buildings would total approximately 14,000 square feet of floor area, with a maximum capacity of 300 total visitors at any given time. Small basement spaces would be provided in both buildings for mechanical and electrical equipment, a four-foot crawl space and 10-foot basement in the temple building and a nine and a half-foot-deep basement for the community building. The proposed site layout is shown on Figure 2.1-4 (Conceptual Site Plan).

2.2.3.1 *Temple Sanctuary Building*

The Temple Sanctuary building would consist of approximately 3,000 square feet of floor area. This building is intended for religious worship and meditation services. The Temple Sanctuary building is oriented near the intersection of Ruby Avenue and Norwood Avenue. Landscaping would wrap along the two street frontages on this corner property. A walkway for religious procession would follow the gardens around three sides of the building. The fourth side would face the Community building and the two buildings together would form a main courtyard at the interior of the site. The maximum height of Temple Sanctuary building would be approximately 43 feet 5 inches to the top of the temple roof and approximately 64 feet 10 inches to the top of the temple spire (steeple). (See Figure 2.1-5). Per Municipal Code Section 20.40.200, the maximum allowable height for the PQP zoning district is 65 feet. Temple Sanctuary entry doors would open to the east, opposite an east-facing Buddha shrine, exterior procession routes to circumambulate the temple for religious worship rituals, and entry gates that define the threshold where secular space crosses to sacred space.

2.2.3.2 *Community Building*

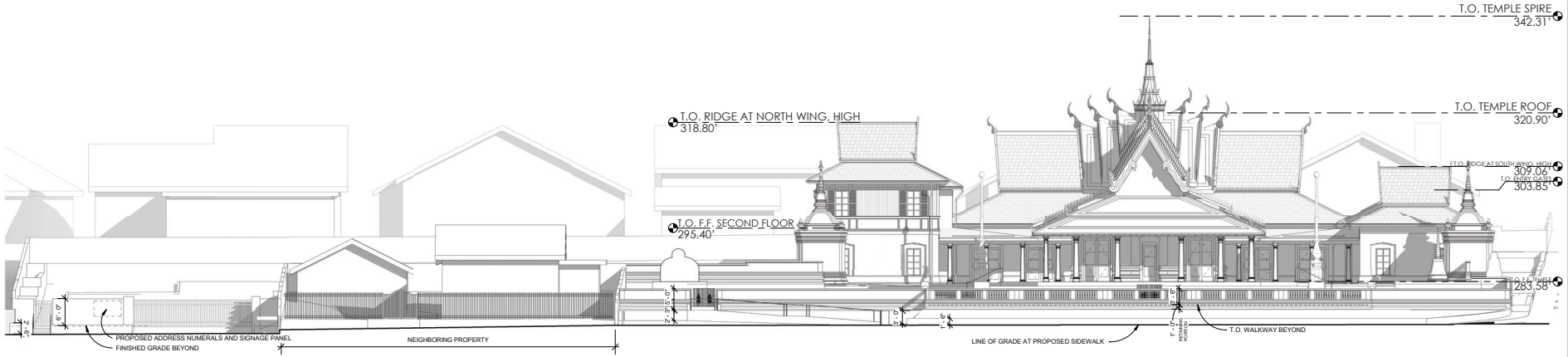
The Community building would consist of approximately 11,000 square feet of floor area. This building is proposed to be a multi-use structure characterized by a series of smaller roof volumes which could subdivide the building into three distinct wings of varying heights corresponding to its horseshoe-shaped geometry. A covered arcade would wrap the three inward sides forming the main courtyard. The majority of the building would be single story and would house a community hall for gathering and celebration of meals; a finishing kitchen; a religious library which would also act as a religious classroom; and office and bathroom spaces. A small portion of the Community building would have a second floor, intentionally located at its northern side at the most interior and private portion of the property. The second floor would house the monks' residence for eight fulltime residents of the property in a shared dwelling unit with multiple sleeping rooms. The maximum height of Community building would be approximately 35 feet. The maximum allowable height for the PQP zoning district is 65 feet.

2.2.4 Courtyards and Landscaped Areas

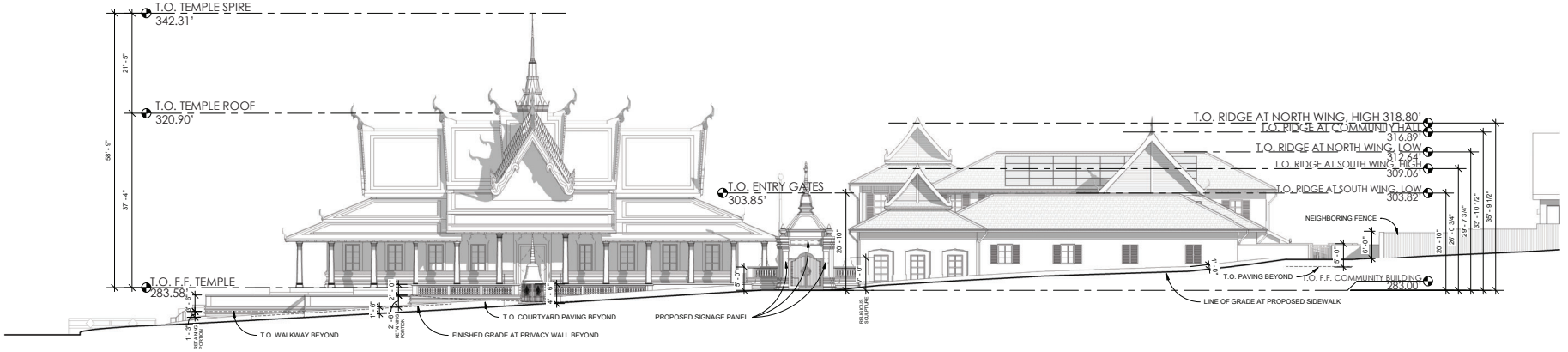
The project proposes approximately 7,035 square feet of outdoor gathering spaces, including a large rectangular landscaped courtyard on the interior of the project site and connected smaller courtyards along the two sides of the temple building. The project includes the removal of approximately 20 existing trees (16 on-site and four off-site at the unimproved frontages along Ruby Avenue and Norwood Avenue) from the site and approximately 87 new trees (73 on-site and 14 in sidewalk tree wells) would be planted. There would be no net loss of trees on the project site due to extensive new planting, including the installation of a landscaped buffer and new street trees along the perimeter of

the site. All outdoor plantings would be Water Efficient Landscape Ordinance compliant. The proposed landscaping for the project site is shown on Figure 2.1-6.[1]

[1] County of Santa Clara. Water Efficient Landscape Ordinance. Accessed June 20, 2022. https://slm.sccgov.org/welo-ordinance#:~:text=The%20ordinance%20promotes%20efficient%20landscapes%20in%20new%20developments,of%20landscapes%20that%20can%20be%20covered%20in%20turf.



WEST ELEVATION - VIEW FROM RUBY AVENUE



SOUTH ELEVATION - VIEW FROM NORWOOD AVENUE

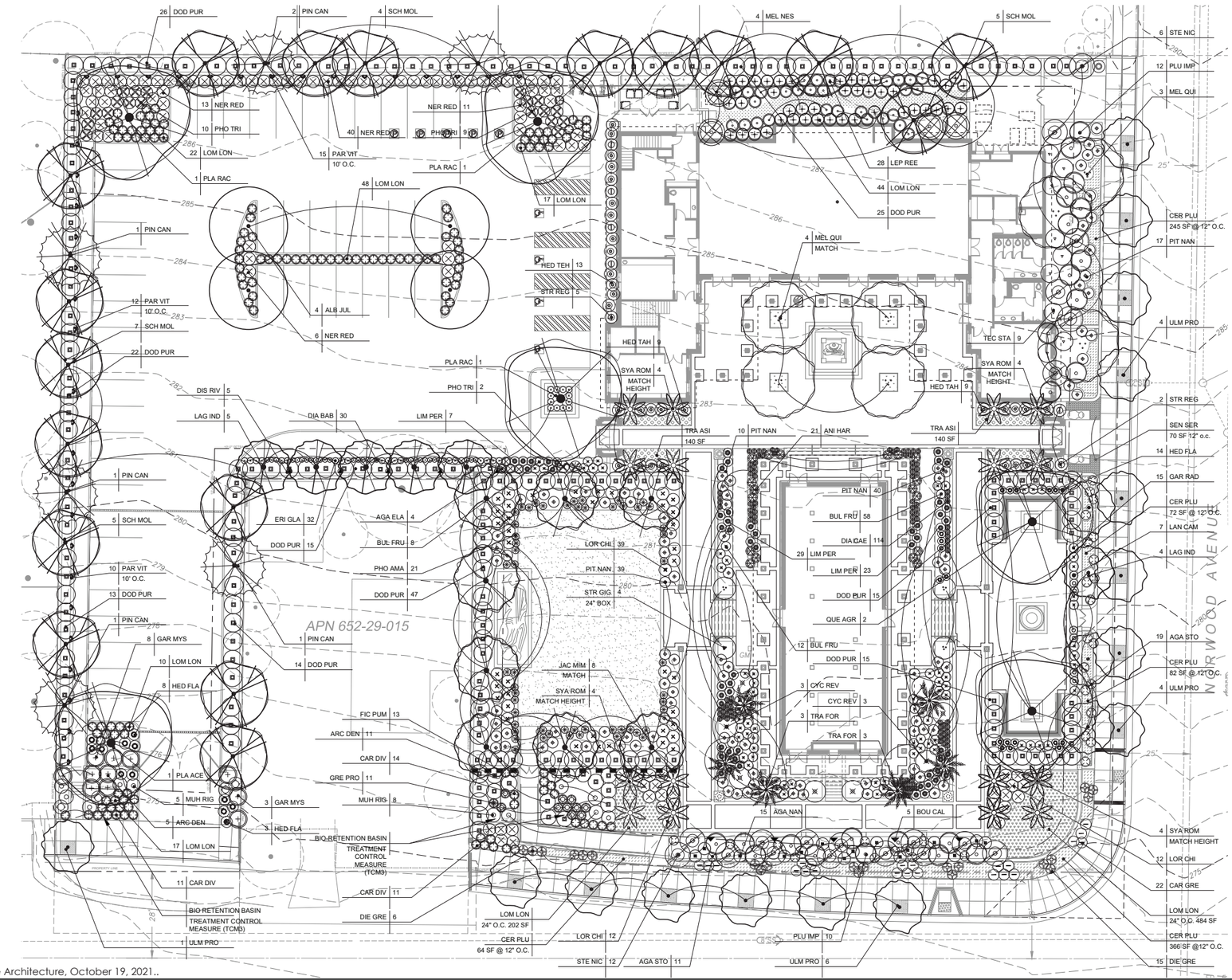
Source: Andrew Mann Architecture, October 19, 2021.

ELEVATION DIAGRAM

FIGURE 2.1-5

PLANTING LEGEND

(E)	EXISTING		PLANT IN POT
TBD	TO BE DETERMINED		GROUNDCOVER, SEE PLANT LIST
V.I.F.	VERIFY IN FIELD		LAWN
S.A.D.	SEE ARCHITECTURAL DRAWINGS		
	PROPOSED VINE		(E) TREE TO REMAIN
	PROPOSED SHRUB, PERENNIAL, GRASS, FERN, ETC.		
	PROPOSED TREE		PROPOSED PALMS



PLANTING NOTES

1. PROVIDE MATCHING SIZES AND FORMS FOR EACH SPECIES FOR TREES INSTALLED IN GRID OR SPACED EQUALLY IN ROWS AS SHOWN ON DRAWINGS. ALIGN TREES ACROSS ROADWAYS, DRIVES OR WALKWAYS. ADJUST SPACING AS NECESSARY, SUBJECT TO REVIEW BY LANDSCAPE ARCHITECT.
2. PROVIDE MATCHING SIZES AND FORMS FOR ALL HEDGE PLANTINGS. SPACE EQUALLY ON TRIANGULAR OR GRID SPACING AS CALLED FOR ON DETAIL. WHERE GROUND COVER IS SHOWN AS A HATCH, QUANTITIES ARE NOT GIVEN. PROVIDE PLANT MATERIAL TO FILL SPACE SHOWN ON DRAWINGS.
3. EQUALLY SPACE VINES PLANTED IN ROWS AGAINST WALLS OR FENCES. SEE DRAWINGS FOR QUANTITY AND SPACING. REMOVE ALL VINES FROM NURSERY STAKES AND SPREAD OUT ONTO WALL PRIOR TO ATTACHING TO SURFACE. SIMILARLY ATTACH VINES AT PILASTERS OR POSTS.
4. STAKE OUT LOCATION OF EACH TREE AS SPECIFIED. EACH LOCATION OF ALL TREES SHALL BE ACCEPTED BY LANDSCAPE ARCHITECT PRIOR TO FINAL INSTALLATION.
5. EXACT PLACEMENT FOR ALL HEADERS SHALL BE ACCEPTED BY LANDSCAPE ARCHITECT PRIOR TO FINAL INSTALLATION.
6. COORDINATE WITH IRRIGATION PLANS TO ASSURE CORRECT PLACEMENT OF SPRAY HEADS.
7. IN ADDITION TO HEADERS SHOWN ON THE DRAWINGS, PROVIDE AN ALLOWANCE OF 5 PERCENT OF THE TOTAL LINEAL FOOTAGE OF HEADER TO BE FURNISHED AND INSTALLED DURING THE PROGRESS OF THE WORK AS DIRECTED BY THE LANDSCAPE ARCHITECT.
8. PLANT NAMES ARE ABBREVIATED ON THE DRAWINGS. SEE PLANT LIST FOR KEY AND CLASSIFICATION.
9. MULCH: MULCH IS TO BE MINI PINE BARK. CONFIRM SELECTION WITH LANDSCAPE ARCHITECT PRIOR TO PLANTING.
10. SOIL AMENDMENT: AMEND SOIL PER SOILS REPORT AND DIRECTION OF LANDSCAPE ARCHITECT. SOIL TEST LOCATION PER L.A.; A MINIMUM OF 2" OF FULLY STABILIZED AND CERTIFIED COMPOST IS TO BE INCORPORATED IN THE TOP 12" OF SOIL.
11. SLOW-RELEASE FERTILIZER TABLET: "AGRIFORM" 7 GRAM TABLETS WITH 20-10-5 (N-P-K) BY SCOTTS (800) 492-8255.
12. IRRIGATION AND HARDSCAPE ADJACENT TO PLANTING AREAS SHALL BE ACCEPTED BY LANDSCAPE ARCHITECT PRIOR TO ALL PLANTING ACTIVITIES.
13. ALL PLANT MATERIALS SHALL BE ACCEPTED BY LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
14. LANDSCAPE MAINTENANCE:
    A. LANDSCAPE MAINTENANCE SHALL BE PROVIDED FOR (90 DAYS) AFTER PRELIMINARY ACCEPTANCE. START DATE IS DETERMINED BY LANDSCAPE ARCHITECT.
    B. QUALIFICATIONS: LANDSCAPE CONTRACTOR OR MAINTENANCE SUBCONTRACTOR SHALL HAVE A FULL TIME EMPLOYEE ASSIGNED TO THE JOB AS FOREMAN FOR THE DURATION OF THE CONTRACT. FOREMAN SHALL HAVE A MINIMUM OF FOUR (4) YEARS EXPERIENCE IN LANDSCAPE MAINTENANCE SUPERVISION, WITH EXPERIENCE OR TRAINING IN TURF MANAGEMENT, ENTOMOLOGY, PEST CONTROL, SOILS, FERTILIZERS AND PLANT IDENTIFICATION.
    C. MAINTENANCE CONTRACTOR TO MAINTAIN ALL PLANT MATERIALS AND IRRIGATION SYSTEM.
    D. CONTRACTOR TO INSTRUCT MAINTENANCE CONTRACTOR.
    E. LANDSCAPE MAINTENANCE CONTRACTOR SHALL SUBMIT MAINTENANCE SCHEDULE TO LANDSCAPE ARCHITECT FOR APPROVAL PRIOR TO START OF LANDSCAPE MAINTENANCE PERIOD.
    F. AT BEGINNING OF MAINTENANCE PERIOD, VISIT AND WALK SITE WITH LANDSCAPE ARCHITECT TO VERIFY SCOPE OF WORK AND UNDERSTAND EXISTING SITE CONDITIONS. NOTIFY LANDSCAPE ARCHITECT FIVE (5) DAYS PRIOR TO VISIT.
    G. MATCH ALL MATERIALS WITH SAME MATERIALS USED IN ORIGINAL INSTALLATION.
    H. STERILIZE ALL TOOLS USED PRIOR TO ANY MAINTENANCE WORK.
18. INCLUDE 15% EXTRA BUDGET FOR ADDITIONAL PLANTS.
19. ALL TREES AND HEDGES ARE NOT TO BE TRIMMED IN GEOMETRIC FORMS AND ARE TO BE LEFT IN A NATURAL HABIT.
20. CLOSE OUT AND MAINTENANCE MANUAL: LANDSCAPE CONTRACTOR SHALL SUBMIT A MANUAL WITH ALL MATERIALS AND PRODUCTS USED IN CONSTRUCTION AND MAINTENANCE PERIOD. MAKE CORRECTIONS AND ADDITIONS PER DIRECTION OF LANDSCAPE ARCHITECT PRIOR TO FINAL SUBMITTAL TO THE OWNER. SUBMIT LOG OF ALL FERTILIZERS AND HERBICIDES WITH DATES AND RATES APPLIED DURING MAINTENANCE PERIOD. LANDSCAPE ARCHITECT SHALL WALK SITE WITH CONTRACTOR AND NOTE ALL UNSATISFACTORY WORK. UNSATISFACTORY WORK SHALL BE CORRECTED WITHIN 10 CALENDAR DAYS.
21. SYNTHETIC TURF: FROM ONE LAWN 1-877-661-5296. INSTALL PER MANUFACTURER RECOMMENDATIONS.

ADDITIONAL NOTES

1. "STREET TREES SHOWN IN THE PUBLIC RIGHT-OF-WAY ARE FOR INFORMATION ONLY. THE PLANNING PERMIT DOES NOT AUTHORIZE THE INSTALLATION OR REMOVAL OF TREES IN THE PUBLIC RIGHT OF WAY. ACTUAL STREET TREE LOCATION WILL BE DETERMINED BY PUBLIC WORKS AT THE IMPLEMENTATION STAGE ON THE PUBLIC IMPROVEMENT PLAN. THE INSTALLATION OR REMOVAL OF THE STREET TREES REQUIRES A PERMIT FROM THE DEPARTMENT OF TRANSPORTATION. THE CITY ARBORIST WILL SPECIFY THE SPECIES. "
2. "INCLUDE 3 INCHES OF COMPOSTED, NON-FLOATABLE MULCH IN AREAS BETWEEN STORMWATER TREATMENT PLANTINGS."
3. "PROJECT WILL NOT LOCATE TREES WITHIN THE BASIN OR BANK PLANTING ZONES OF BIORETENTION AREAS, BUT RATHER ON THE UPLAND PLANTING ZONES PER APPENDIX D OF THE SCVURPPP C.3 STORMWATER HANDBOOK. TREES WILL ALSO NOT BE LOCATED DIRECTLY IN LINE WITH OR NEXT TO STORMWATER INLETS (CURB OPENINGS, BUBBLE BOX EMITTERS, ETC.) AND WILL OFFSET OR RELOCATE TREES WHERE NECESSARY OUTSIDE OF THE BIORETENTION AREA BASIN AND BANK PLANTING ZONES TO MAXIMIZE RUNOFF DISPERSAL THROUGHOUT BIORETENTION AREAS".

Source: Strata Landscape Architecture, October 19, 2021..

PLANTING PLAN

FIGURE 2.1-6

2.2.5 Project Operations

Daily operations would include religious services by the eight monks living on-site with daily visits from a core group of elders from the Khmer Krom congregation. Classroom instruction for approximately 20 attendees will be held during the afternoons, seven days a week, year round. Events for the wider Khmer Krom congregation would be held on weekends, on religious holidays, and for special religious events. It is currently anticipated that weekend, religious holidays and special religious events would be based on the following schedule:

Typical Daily Operations for Weekdays and ***Weekends***

- Religious worship assembly services in the Temple Sanctuary are typically from 10 am - 12 pm;
- Approximately 15 visitors (in addition to the 20 classroom attendees noted below) are anticipated on a typical weekday, and approximately 50 (in addition to the classroom attendees) visitors are anticipated on typical Saturday and Sunday services;
- Worship assembly in the Temple will not occur at the same time as any other assembly use in any other space
- Use of other spaces like the Administrative Office and Community Hall would typically precede or follow these services in the Temple
- Food would be prepared off-site by visitors and brought to reheat in the finishing kitchen; monks would eat in the Temple while visitors would eat in the Community Hall
- Classroom use schedule is as follows:
  - Weekday afternoons 1-4pm Adult-oriented Classes
  - Weekend afternoons 1-4pm Youth-oriented Classes
- Classroom anticipated attendance is approximately 20 visitors

Religious Holidays

- Monthly events for Uposatha Day[2] (exact dates based on the lunar calendar; approximately four times per month) between approximately 10:00 AM to 4:00 PM with an estimated 25 weekday visitors and 75 weekend visitors;
- Annual religious holidays
  - In April for the Khmer Lunar New Year (three consecutive days) from 6:00 PM to 7:00 PM with an estimated 50 visitors on the first day, 10:00 AM to 7:00 PM with an estimated 75 visitors on the second day, and from 10:00 AM to 5:00 PM with an estimated 150 visitors on site at any one time on the third day;
  - In October or November for the Kathina Ceremony[3] (two consecutive days) from 10:00 AM to 7:00 PM, with an estimated 100 visitors on the first day, and from 10:00 AM to 4:00 PM with an estimated 150 visitors on the second day;

[2] Uposatha, fortnightly meetings of the Buddhist monastic assembly, at the times of the full moon and the new moon, to reaffirm the rules of discipline.

[3] Kathina is celebrated at the end of the rainy season, known as vassa, during October and November. During the Vassa period, normally nomadic Buddhist monks will have remained in one place for three months, and the Kathina celebration marks the time for them to move on.

- In September or October for the Ancestor's Offerings from 4:00 AM to 6:00 AM, with an estimated 15 visitors;

Special religious events –The proposed project estimates the number of special religious events of more than 195 visitors to occur approximately 20 times per year. These events would be held both indoors and outdoors and could use amplified music (in compliance with City regulations).

- Anniversary of the new temple (date to be determined, one day on a weekend) between approximately 10:00 AM to 4:00 PM with up to 300 visitors for prayer in the Temple and outdoor celebration;
- Memorial services between approximately 9:00 AM to 4:00 PM where family members and friends gather to pray and receive blessings from the monks in the Temple and are followed by a meal in the Community Hall. Most memorial services are under 150 visitors, but occasionally a larger family or prominent community member may draw up to 300 visitors to pay respects;
- Flower Fundraising is the main fundraising event for the Temple (dates to be determined, typically two consecutive days on a weekend in July) from 10:00 AM to 7:00 PM with an estimated 70 visitors on the 1st and 2nd days;
- Wedding receptions between approximately 12:00PM to 4:00 PM or 6:00 PM to 10:00 PM with up to 300 visitors per occurrence, although most wedding receptions are under 150 visitors; and
- Religious seminars and cultural events (e.g., lectures by visiting teachers) between approximately 9:00 AM to 8:00 PM with up to 300 visitors per occurrence, although most religious seminars and cultural events are under 150 visitors.

Sound Attenuation

The proposed project would have speakers on site for outdoor ceremonies. These would be constructed to direct noise toward the center of the site and limited to 71 dBA maximum volume levels. Their output will be limited at the source of noise so that a reasonable maximum volume is achieved while not disturbing neighbors.

2.2.6 Vehicular Access and Parking

The project proposes an on-site surface parking lot for all activities/events that would occur at the Temple facilities. The parking lot would be the primary location for project-related loading and unloading (including delivery services for events), passenger drop off and pick up, and visitor parking. The lot would be accessed via a two-way driveway on Ruby Avenue. Approximately 53 on-site parking spaces would be provided, which include four ADA parking spaces and seven EV charging stations (two ADA spaces and five non-ADA). An additional 15 spaces designated for valet use during certain religious holidays and events would be provided for a total to 67 parking spaces, plus two parking spaces for motorcycle parking. Based on the City's vehicle parking requirement of one space per 30 square feet of area designated for religious assembly (1,969 square feet), the project is required to provide 66 parking spaces.

The Traffic and Parking Management Plan (TPMP) proposed for the project includes reserved parking for carpools, on-site bicycle parking, and on-site showers and lockers. Reserved off-site

parking and a valet or shuttle service will be implemented for larger religious holidays and events as described below.

Off-site Valet service for events with 190 to 250 visitors:
The Temple Foundation would partner with and would enter into a formal off-site parking agreement with a nearby religious institution, the Evergreen Islamic Center 0.6 mile away, whose parking lot has additional capacity. The agreement would be in place for the life of the Temple. Off-site Valet service will be arranged for holidays or events with anticipated attendance of 190-250 visitors on-site at one time. During these events, most Temple members would park on site, while approximately 20 overflow vehicles would be taken by a valet to the nearby religious institution for off-site parking.

Off-site Shuttle service for events with 251 to 300 visitors:
Shuttle service will be arranged for religious holidays or events with anticipated attendance of 251-300 visitors on site at one time. During these events, Temple members will be advised to park at the designated off-site location (the Evergreen Islamic Center) and take a free shuttle to the Temple site. This off-site location would provide approximately 100 parking spaces.

As a backup plan in the event of a scheduling conflict with the partner religious institution, the Temple will reserve parking available at a nearby public school via an online booking system. The following public schools are available for facility reservations to reserve parking lots for off-site Valet parking and/or shuttle service to the Temple:

a) Norwood Creek Elementary School – 50 spaces
b) Cedar Grove Elementary School – 62 spaces
c) Quimby Oak Middle School – 70 spaces
d) Evergreen Valley High School – more than 300 spaces
e) Valle Vista Elementary School – 46 spaces

Valet and/ or shuttle service could occur at multiple schools and the Temple will reserve parking lots 12 months in advance of the holiday/event. In the event that a school is not available to honor the Temple's reservation, the Temple would engage with another school on the list to reserve the parking lot.

No parking is currently allowed on Ruby Avenue, and no parking on Ruby Avenue would be allowed with the project. Norwood Avenue allows parking on both sides of the street; the proposed project is including alternative parking options to disincentivize on-street parking during project operations.

In addition to managing parking, the proposed project would assist the City with the construction of roadway improvements at the intersection of Norwood Avenue and Ruby Avenue, including a traffic circle, to improve operations of the intersection. All roadway improvements would occur within existing right-of-way.

2.2.7 Stormwater Control Features

The preliminary Stormwater Management Plan (SMP) prepared for the project proposes the incorporation of bioretention basins located toward the Ruby Avenue side of the site to treat runoff from building roofs and impervious ground surfaces. The bioretention basins provide treatment of the runoff by filtering pollutants out before the water is discharged to off-site storm drain lines in

Norwood Avenue. In addition to the bioretention basins, self-treatment areas are proposed for locations containing open landscaping that is adjacent to impervious ground surfaces. Pollutants are filtered through the landscape plants and underlying soil as the runoff flows over them. Pervious paving materials are also proposed to be used in walkways and other pedestrian-oriented areas of the site to further reduce runoff volumes and rates. A detailed Operation and Maintenance Plan would be included in the final SMP to ensure that the post-construction treatment controls are properly maintained to maximize their functionality and pollutant removal efficiency.

In addition to treatment controls, the SMP describes pollutant source controls that would be included in the project. These include structural controls such as storm drain inlet stenciling, and operational controls such as regular site maintenance and good housekeeping practices (street sweeping, trash control, inspection and maintenance of in-site storm drain inlets and bioretention basins).

2.2.8 Green Building Measures

The proposed project would implement the following green building features:

- Sustainable building materials would be used, including Forest and Stewardship Council wood frame construction.
- The project is proposing the minimum required parking with seven EV vehicle charging locations and 10 bicycle parking spaces.
- A photovoltaic rooftop array on the community building.
- The proposed project would be designed to a LEED silver equivalent.
- All lighting would be LED.
- The site would feature 100 percent on-site stormwater management.
- Light pollution and glare will be kept to a minimum and will comply with city standards.
- All outdoor plantings will be Water Efficient Landscape Ordinance (WELO) compliant.
- The project would rely solely on electricity for its energy needs and there will be no natural gas usage.

2.2.9 Project Construction

The estimated duration for all construction activities would be approximately 24-28 months and is expected to occur from Fall 2022 to Winter 2024. Approximately 5,815 cubic yards of soil would be exported from the project site, requiring approximately 600 truckloads conservatively assuming 12 cubic yards of soil per haul trip. Construction activities would include site preparation, grading, building construction, and paving.

2.3 PROJECT OBJECTIVES

The objectives for the project are as follows.

- Develop a traditional Cambodian Buddhist Temple to serve the existing local Khmer Krom religious community.

- Provide a new and adequate facility in size for religious observances, religious study, meditation services, and events by the Khmer Krom community which serves approximately 300 congregants.

- Develop an adequately sized Community building comprised of a community hall, finishing kitchen, library/classroom, administrative offices, and restrooms on the first floor, and a monks' residence hall for eight full-time resident monks on the partial second floor.

- Design and organize the new structures and site plan to conform with established Khmer religious principles and sacred elements while maximizing the functionality of the site.

- Provide adequate surface parking on-site for routine temple activities, consistent with the requirements contained in Title 20 of the City of San José Municipal Code.

- Provide outdoor gathering spaces for religious events, meditation, and reflection in accordance with Khmer religious principles.

- Replace an underutilized site with a private religious assembly facility that serves the community of San José.

2.4 REQUIRED PERMITS AND APPROVALS

The City of San José anticipates that approvals, including but not limited to the following, would be required to implement the project addressed in this EIR:

- Conventional Rezoning
- Site Development Permit
- Special Use Permit
- Tree Removal Permit
- Issuance of Grading, Building, Encroachment, Utility, and Occupancy Permits
- Other Public Works Clearances

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 summary of projections from the adopted Envision San José 2040 General Plan.

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?

For each resource area, cumulative impacts may occur over different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area. The geographic area that could be affected by the proposed project varies depending upon the type of environmental issue being considered. Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. Table 3.0-1 provides a summary of the different geographic areas used to evaluate cumulative impacts.

Table 3.0-1: Geographic Considerations in Cumulative Analysis

Resource Area	Geographic Area
Aesthetics	Project site and adjacent parcels
Agriculture and Forestry Resources	City
Air Quality	San Francisco Bay Area Air Basin
Biological Resources	Project site and adjacent parcels
Cultural Resources	Project site and adjacent parcels
Energy	Energy provider's service area
Geology and Soils	Project site and adjacent parcels
Greenhouse Gases	Planet-wide
Hazards and Hazardous Materials	Project site and adjacent parcels
Hydrology and Water Quality	Thompson Creek watershed
Land Use and Planning/Population and Housing	Citywide
Minerals	Identified mineral recovery or resource area
Noise and Vibration	Project site and adjacent parcels
Public Services and Recreation	Project site and vicinity
Transportation/Traffic	Project site and vicinity
Tribal Cultural Resources	Project site and adjacent parcels
Utilities and Service Systems	Citywide
Wildfire	Within or adjacent to the wildfire hazard zone

3.1 AESTHETICS

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

State

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 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.[4]

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.

Local

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.

Envision San José 2040 General Plan

The 2040 General Plan, adopted by the City in 2011, 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	
Attractive City	
Policy CD-1.1	Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and

[4] California Department of Transportation. "Scenic Highways." Accessed April 2, 2021. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways.

General Plan Policies - Aesthetics	
	development of community character and for the proper transition between areas with different types of land uses.
Policy 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.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.19	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.
Policy CD-1.23	Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.
Policy CD-1.27	When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high-tension electrical transmission lines are exempt from this policy.
Policy CD-1.29	Provide and implement regulations that encourage high quality signage, ensure that business and organizations can effectively communicate though sign displays, promote way finding, achieve visually vibrant streetscapes, and control excessive visual clutter.
Community Empowerment	
Policy VN-2.3	Ensure that community members have the opportunity to provide input on the design of public and private development within their community.

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 any 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 and development standards, including but not limited to maximum building height and setback requirements.

City Council Policy 4-2: Public Streetlights

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.

City Council Policy 4-3: 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.

3.1.1.2 *Existing Conditions*

Project Site

The approximately 1.86-acre project site is located on the northeast quadrant of the intersection of Ruby Avenue and Norwood Avenue in a developed, residential area of the City of San José. The site is currently accessed by asphalt driveways extending east from Ruby Avenue and north from Norwood Avenue. The project site surrounds a developed residential property at the northwest corner. The project site is vacant and is landscaped and vegetated with concrete slab patios, natural low-lying grass, bushes, shrubs, and various trees. (See Photos 1-7)

The site is bounded by Ruby Avenue to the west, Norwood Avenue to the south, and residential properties on other sides. The area surrounding the project site is a predominately suburban neighborhood containing one- to two-story single family homes featuring mission style architecture and a variety of other design styles. Images of the surrounding area are included in Photos 1 through 7.

Photo 1: View from Project Site Looking Northwest

Photo 2: View of Project Site from Ruby Avenue Looking East

PHOTOS 1 & 2

Photo 3: View of Project Site from the Northwest Corner of Norwood Avenue and Ruby Avenue

Photo 4: View of Project Site from the Southwest Corner of Norwood Avenue and Ruby Avenue

Photo 5: View from Project Site Looking Southwest from the Northeast Norwood Avenue and Ruby Avenue

Photo 6: View from Project Site Looking East Along Norwood Avenue

Photo 7: View of Project Site Looking West Along Norwood Avenue

The property surrounded by the project site is occupied by a one-story, single-family home with green stucco walls and a gabled shingle roof. The residence is surrounded on three sides by a wooden fence and has a wrought iron gate on the street facing front of the property.

Scenic Corridors

The project site is located in a residential area on the eastern edge of the City of San José. The project site is not located within a city defined scenic corridor or City Gateway. Additionally, the project site is located approximately 12.75 miles northeast of the nearest Officially Designated scenic highway, SR 9.

Lighting

The surrounding structures have some minimal light and glare resulting from reflections off windows and emanation of light from windows at night. In addition, both Ruby Avenue and Norwood Avenue are lined with halogen streetlights which operate at night.

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?[5] 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?

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design.

3.1.2.1 *Project Impacts*

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

The project site is not located along a designated scenic corridor and is not identified as a City Gateway. Other scenic views in the City of San José include views of Coyote Valley, the Diablo

[5] Public views are those that are experienced from publicly accessible vantage points.

Range, the Silver Creek Hills, the Santa Teresa Ridge, and the Santa Cruz Mountains.[6] The project site is located on the eastern edge of the City of San José , approximately a mile or more depending on the scenic view, away from these scenic views. The maximum height of the project would be approximately 65 feet at the temple spire, however most of the structure would be lower in height, closer to 36 feet tall, which would result in the introduction of new construction in the area which would be taller than existing structures, which are mostly 20 to 30 feet tall. Although this building height would be greater than the surrounding structures, the scenic views from the project site and surrounding areas are mostly obscured by other existing structures and the visibility of these views would not be substantially degraded by the proposed project. Therefore, the proposed project would have a less than significant impact on scenic vistas in the project area. **(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?

As discussed above in *Section 3.1.1.2*, the project site is not located along a State scenic highway or designated scenic corridor. Redevelopment of this site, therefore, would not have a significant adverse effect on any scenic resources, such as trees, rock outcroppings, and historic buildings within a State scenic highway. **(No 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 proposes a religious assembly use in a residential area, and the site is currently zoned for residential uses. However, the project proposes to rezone the site to the *PQP Public/Quasi-Public* zoning district, and the proposed design has been developed to conform to the development regulations of that district and to be compatible with development regulations surrounding residential uses including setbacks, height transitions, and landscaping. Elements of the design were also included to intentionally match characteristics of the buildings around the project site.

This structure would step down in elevation from the spire as structures get closer to surrounding residential buildings, which would integrate the project into the surrounding neighborhood by being less abruptly different in height. Additionally, the site would include a greater number of trees and more, aesthetically intended, landscaping than the existing site, improving the aesthetic qualities when compared to the existing conditions. The views from surrounding areas are obscured under existing conditions by the trees and other vegetation on site and the proposed project would only marginally decrease views of hills to the east of the project site when adjacent to the proposed project.

[6] City of San José. Envision 2040 General Plan. Accessed April 1, 2021. https://www.sanjoseca.gov/home/showpublisheddocument?id=22565.

The project would not conflict with the applicable zoning regulations and other regulations governing scenic quality governing scenic quality therefore, the proposed project would have a less than significant impact. **(Less than Significant Impact)**

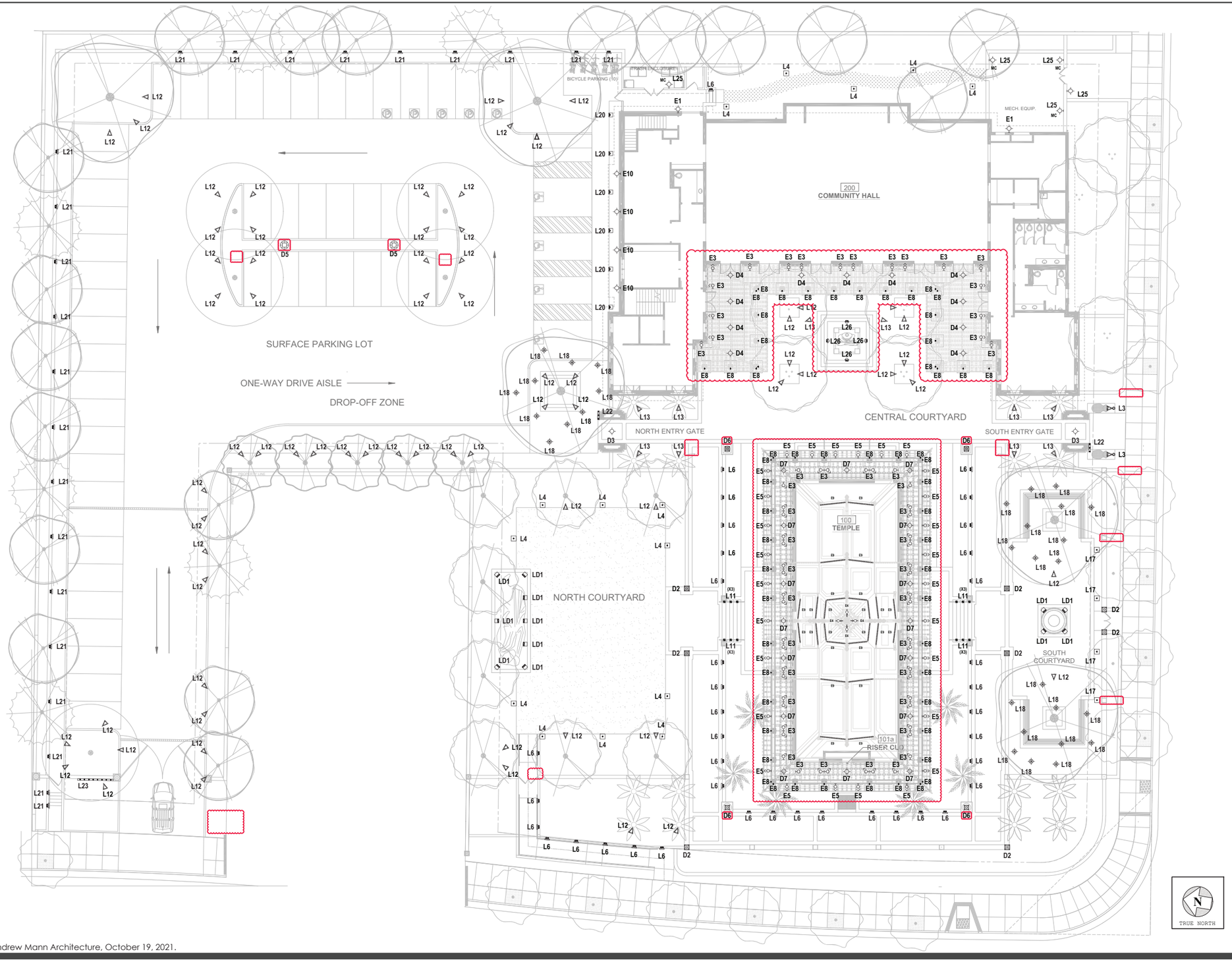
d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The proposed project would create a religious facility on a vacant site. The proposed project would introduce new sources of lighting on-site that may result in increased ambient lighting. The design of the proposed project would be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with aforementioned applicable General Plan policies and the City's Design Guidelines. The site lighting plan prepared for the proposed project determined that the intensity of light would be limited to the area of the project site and would have minimal spill over into the surrounding areas of the sidewalks adjacent on the west and south sides of the project site. The wall on the north and east sides of the site would prevent light from spilling over into the surrounding residential yards. Refer to Figure 3.1-1 below which demonstrates areas of increased light as red areas. Additionally, although the proposed project includes windows for natural light, these surfaces would not contribute to substantial glare because they would be obscured from outside views by the perimeter wall along the sides of the site bordering houses or be at angles which would not result in glare for a majority of the day. Therefore, the proposed project would result in the creation of less than significant light and glare which would not adversely affect day or nighttime views in the area. **(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 cumulative setting for visual and aesthetics impacts is the neighborhood surrounding the site. As stated above, the proposed project would not contribute to impacts on aesthetic resources or scenic views of the surrounding areas. There are no known pending or foreseeable development projects in the immediate vicinity of the project. All cumulative projects occurring within the City of San José would be subject to design guidelines (depending on the proposed use and location), lighting standards, and signage regulations. By requiring projects to adhere to the aforementioned measures and requirements, aesthetic impacts would be minimized or reduced. Development projects in the City would undergo individual review to ensure that site selection, building materials, heights, and lighting is implemented in a manner that does not result in significant visual impacts. For these reasons, the cumulative projects, including the proposed Temple project, would not result in a significant cumulative aesthetic or visual impact. **(Less than Significant Cumulative Impact)**



Source: EJA Lighting Design, Andrew Mann Architecture, October 19, 2021.

LIGHTING PLAN

FIGURE 3.1-1

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 identified as Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[7]

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. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[8]

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.[9] 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.[10]

3.2.1.2 *Existing Conditions*

The project site is located in the suburbs of the City of San José which is an urbanized area which does not contain agricultural resources.[11] Additionally, the project site primarily has ruderal vegetation and sparse trees and is not defined as a forest resource.

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[7] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 2, 2021. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.

[8] California Department of Conservation. "Williamson Act." Accessed April 2, 2021. http://www.conservation.ca.gov/dlrp/lca.

[9] 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)).

[10] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed April 5, 2021. http://frap.fire.ca.gov/.

[11] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed April 2, 2021. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.

3.2.2 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?

3.2.2.1 *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 not designated as an area of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The project would not convert farmland resources to non-agriculture uses therefore the project would have no impact on these resources. **(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 or held under a Williamson Act contract. Therefore, the project would not conflict with these designations. **(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 for forest land, timberland, or timberland zoned Timberland Production. The project would not cause a rezoning of areas zoned for forest land, timberland, or timberland zoned Timberland Production and would not impact these zoning designations. **(No Impact)**

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

The project site is in an urban area and is not located in or near forest land uses. The project would not convert forest land to non-forest use and would not impact forest land resources. **(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?

The project site is not located on or near Farmland or forest land uses. Therefore, the project would not result in conversion of Farmland or forest land to non-agricultural or non-forest uses. **(No Impact)**

3.2.2.2 *Cumulative Impacts*

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

The proposed project would have no impact on agricultural and forestry resources. Therefore, the proposed project would not contribute to a cumulative impact on these resources. **(No Impact)**

3.3 AIR QUALITY

The following discussion is based, in part, on an air quality assessment prepared by *Illingworth & Rodkin, Inc.* The report, dated June 14, 2021, is included in Appendix B to this DEIR.

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 (O_3), nitrogen oxides (NO_x), particulate matter (PM), carbon monoxide (CO), sulfur oxides (SO_x), and lead.[12] 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	• 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	• 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	• 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	• Cancer • Chronic eye, lung, or skin irritation • Neurological and reproductive disorders

High O_3 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 O_3 levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce O_3 levels. The highest O_3 levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

[12] The area has attained both state and federal ambient air quality standards for CO. The project does not include substantial new emissions of sulfur dioxide or lead. These criteria pollutants are not discussed further.

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 (PM_{10}) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of PM_{10} 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).[13] 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, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors under CEQA. 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, O_3, CO, SO_x, NO_x, and lead.

The California Air Resources Board (CARB) is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations,

[13] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed February 18, 2021. https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

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 additional 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.[14]

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.

[14] BAAQMD. *Final 2017 Clean Air Plan.* April 19, 2017. http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General Plan includes goals, policies, and actions to reduce exposure of the City's sensitive population to exposure of air pollution and toxic air contaminants or TACs. The following goals, policies, and actions are applicable to the proposed project.

General Plan Policies – Air Quality	
Goal MS-10:	Minimize emissions from new development.
Policy MS-10.1	Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-10.3	Promote the expansion and improvement of public transportation services and facilities, where appropriate, to both encourage energy conservation and reduce air pollution.
Goal MS-11	Minimize exposure of people to air pollution and toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.4	Encourage the installation of appropriate air filtration at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Action MS-11.7	Consult with BAAQMD to identify stationary and mobile TAC sources and determine the need for and requirements of a health risk assessment for proposed developments.
Goal MS-13	Minimize air pollutant emissions during demolition and construction activities.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

3.3.1.3 *Existing Conditions*

The project is located in Santa Clara County, which is in the San Francisco Bay Area Air Basin. Ambient air quality standards have been established at both the State and federal level. The Bay Area

meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter (PM_{10}), and fine particulate matter ($PM_{2.5}$).

The closest sensitive receptors to the project site are in the single-family residences adjacent to and surrounding the project site along the shared property line. This project would also introduce new sensitive receptors (i.e., resident monks) to the project site.

3.3.1.4 *Significance Thresholds*

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. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.3-2 below. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable and contribute to unhealthy air. BAAQMD's thresholds are set to be protective of human health and are designed to allow the air basin to achieve the state and federal ambient air quality standards. If a project makes a less than cumulatively considerable contribution to the criteria air pollutants for which the basin is in nonattainment, the project would not have significant adverse health effects.

Table 3.3-2: Air Quality Significance Thresholds

Criteria Air Pollutant	***Construction Thresholds***	***Operational Thresholds***	
	Average Daily Emissions (lbs./day)	**Average Daily Emissions (lbs./day)**	**Annual Average Emissions (tons/yr.)**
ROG	54	54	10
NO_x	54	54	10
PM_{10}	82 (Exhaust)	82	15
$PM_{2.5}$	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hr. average) or 20.0 ppm (1-hr. average)	
Fugitive Dust	Construction Dust Ordinance or Other Best Management Practices	Not Applicable	
Health Risks and Hazards	**Single Sources Within 1,000-foot Zone of Influence**	**Combined Sources (Cumulative from all Sources Within 1,000-foot Zone of Influence)**	
Excess Cancer Risk	> 10.0 per one million	> 100 per one million	
Hazard Index	>1.0	>10.0	
Incremental Annual $PM_{2.5}$ >0.3	> 0.3µg/m^3	> 0.8µg/m3	

Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM10 = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, PM2.5 = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less.

3.3.2 Impact Discussion

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

a) Conflict with or obstruct implementation of the applicable air quality plan?
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?
c) Expose sensitive receptors to substantial pollutant concentrations?
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

3.3.2.1 *Project Impacts*

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

Construction Criteria Pollutant Emissions

The proposed project would require the use of construction equipment, therefore the California Emissions Estimator Model (CalEEMod) was used to estimate emissions from on-site construction activity, construction vehicle trips, and evaporative emissions. The project land use types and size, and anticipated construction schedule were input to CalEEMod. The CARB EMission FACtors 2017 (EMFAC2017) model was used to predict emissions from construction traffic, which includes worker travel, vendor trucks, and haul trucks. The CalEEMod model output along with construction inputs and EMFAC2017 vehicle emissions modeling outputs are included in Appendix B.

Average daily emissions were calculated for each year of construction by dividing the annual construction emissions by the number of active workdays during that year. Table 3.3-3 shows the average daily construction emissions of ROG, NO_x, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the project.

Table 3.3-3: Construction Emissions				
Year	**ROG**	**NOx**	**PM10 Exhaust**	**PM2.5 Exhaust**
Construction Emissions Per Year (Tons)				
2022	0.09	0.78	0.04	0.03
2023	0.23	1.64	0.08	0.07
2024	0.24	1.45	0.07	0.06
Average Daily Construction Emissions Per Year (pounds/day)				
2022 (143 construction workdays)	1.24	10.90	0.53	0.47
2023 (261 construction workdays)	1.75	12.54	0.58	0.52
2024 (207 construction workdays)	2.34	14.05	0.64	0.59
BAAQMD Thresholds (lbs. per day)	*54 lbs/day*	*54 lbs/day*	*82 lbs./day*	*54 lbs/day*
Exceed Threshold?	No	No	No	No
Source: Illingworth and Rodkin Inc. *Wat Khmer Kampuchea Krom Temple Project Construction Community Risk Assessment*. June 14, 2021				

As shown in Table 3.3-3, construction period emissions would not exceed the BAAQMD significance thresholds. Therefore, the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **(Less than Significant Impact)**

Operational Criteria Pollutant Emissions

Operational criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by visitors. BAAQMD provides screening criteria for operations of projects under defined sizing. For places of worship the BAAQMD defined screening criteria for criteria pollutants is 439,000 square feet for religious assembly uses, which is greater than the project building area of approximately 13,902 square feet. Additionally, because the average of 97 daily vehicle trips created by the project would be light duty vehicles, these trips would not create substantial TACs. This is because the additional daily trips would be added to the existing roadway volumes of a maximum of 8,750 average daily trips and would not exceed the BAAQMD threshold for operational roadway emissions of 10,000 average daily trips. The project would also not result in a large increase of traffic on roadways around the site and would not create substantial emissions from these vehicle trips. Even during the occasional large events, approximately 20 times per year, the project would not generate sufficient trips to create a significant operational air quality impact, as the trip volumes would be well below that of a 439,000 sq. ft. religious assembly use and the trips would be dispersed to multiple sites given attendees would be utilizing off-site parking. The roundabout the project would help implement at the Ruby Avenue/Norwood Avenue intersection would have no effect on the amount of traffic occurring at the adjacent intersection. Therefore, the operational period emissions would not exceed the BAAQMD significance thresholds and the project would have a less than significant criteria pollutant emissions impact and would not conflict with or obstruct implementation of the Bay Area 2017 CAP. **(Less than Significant Impact)**

BAAQMD 2017 CAP

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 (as discussed above). Because the project would not exceed the BAAQMD screening criteria of 439,000 square feet, it would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds shown in Table 3.3-2. Thus, the project is not required to incorporate project-specific control measures listed in the 2017 CAP. Further, implementation of the project would not inhibit BAAQMD or partner agencies from continuing progress toward attaining State and federal air quality standards and eliminating health-risk disparities from exposure to air pollution among Bay Area communities, as described within the 2017 CAP. The project would comply with the 2017 Clean Air Plan. **(Less than Significant Impact)**

Table 3.3-4: Applicable Control Measures

Transportation Measures	
TR9 - Bicycle and Pedestrian Access and Facilities: Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The proposed project would include bicycle parking consistent with City standards. In addition, the project site has been designed to be pedestrian oriented for the neighborhood around the project. The project is consistent with this measure.
TR13 - Parking Policies: Encourage parking policies and programs in local plans, e.g., reduce minimum parking requirements; limit the supply of off-street parking in transit-oriented areas; unbundle the price of parking spaces; support implementation of demand-based pricing in high-traffic areas.	The proposed project will comply with parking ordinances and restrictions provided by the City. Therefore, the proposed modified project would be consistent with this control measure.
Energy Measures	
EN2 - Decrease Electricity Demand: Work with local governments to adopt additional energy-efficiency policies and programs. Support local government energy efficiency program via best practices, model ordinances, and technical support. Work with partners to develop messaging to decrease electricity demand during peak times.	The proposed project would be constructed with energy efficient appliances and other energy saving features. Therefore, the proposed modified project would be consistent with this control measure.
Building Measures	
BL1 - Green Buildings: Collaborate with partners such as KyotoUSA to identify energy-related improvements and opportunities for onsite renewable energy systems in school districts; investigate funding strategies to implement upgrades. Identify barriers to effective local implementation of the California Green Building Standards Code (CALGreen; Title 24) statewide building energy code; develop solutions to	The proposed project would be required to comply with the City's Green Building Ordinance and the most recent California Building Code which would increase building efficiency over standard construction. Currently, there is no specific proposals for cool roofs or cool paving. Therefore, the proposed project is generally consistent with this control measure.

Table 3.3-4: Applicable Control Measures	
improve implementation/enforcement. Work with ABAG's BayREN program to make additional funding available for energy-related projects in the buildings sector. Engage with additional partners to target reducing emissions from specific types of buildings.	
Natural and Working Lands Measures	
NW2 - Urban Tree Planting: Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, BAAQMD's technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City's tree replacement policy. The proposed project would also increase the number of trees planted on the site. Therefore, the project is consistent with this control measure.

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

The Bay Area is considered a non-attainment area for ground-level O_3 and $PM_{2.5}$ under both the federal Clean Air Act and state Clean Air Act. The proposed project would increase criteria pollutants in the Bay Area, contributing to existing violations of O_3 standards. Per the BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size to, by itself, result in nonattainment of ambient air quality standards. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's existing air quality conditions. As discussed above, the proposed project would not result in any air pollutant emissions exceeding BAAQMD's significance thresholds. As a result, the proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. **(Less than Significant Impact)**

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

Particulate Matter and Fugitive Dust

The construction of the proposed project would result in fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The proposed project would be required to implement the following Standard Permit Condition to reduce fugitive dust on site.

Standard Permit Condition

Measures to reduce fugitive dust (i.e., $PM_{2.5}$) emissions from construction are recommended to ensure that health impacts to nearby sensitive receptors are minimized. During any construction period ground disturbance, the applicant shall ensure that the project contractor implements both basic and additional measures to control dust and exhaust. Pursuant to standard permit conditions required by the City, the project applicant will be required to implement the following measures during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least 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.

The Standard Permit Conditions above represent standard and enhanced measures that would achieve greater than an 80 percent reduction in on-site fugitive $PM_{2.5}$ emissions based on the CalEEMod output provided in the Air Quality analysis. These conditions are consistent with recommendations in the BAAMQD CEQA Guidance for providing "best management practices" to control construction emissions and as noted in Appendix B. Therefore, the fugitive dust produced by the proposed project would be less than significant with implementation of the Standard Permit Conditions above. **(Less than Significant Impact)**

Construction Toxic Air Contaminants Impacts

Temporary project construction activity would generate emissions of DPM from equipment and trucks and also generate dust on a temporary basis that could affect nearby sensitive receptors. Additionally, the project could introduce new residents that are sensitive receptors, who would be exposed to existing sources of TACs and localized air pollutants in the vicinity of the project.

Therefore, the impact of the existing sources of TAC upon the existing sensitive receptors and new incoming sensitive receptors was assessed.

The Air Quality and GHG Assessment (Appendix B) assessed the range of infant and adult exposures to Toxic Air Contaminants (TACs) at all the residences surrounding the project site. Infant exposure at residences was used as a worst-case assumption because child and adult exposures would be less.

The maximum modeled annual DPM and $PM_{2.5}$ concentrations, which include both the DPM and fugitive $PM_{2.5}$ concentrations, were identified at nearby sensitive receptors to find the maximally exposed individuals (MEI). Results of the model indicated that the total $PM_{2.5}$ concentration and the cancer risk MEI are located at the adjacent single-family home southeast of the construction project site. The location of the MEI is shown in Figure 3.3-1. Table 3.3-5 summarizes the maximum cancer risks, $PM_{2.5}$ concentrations, and health hazard indexes for project related construction activities.

Table 3.3-5 Construction TAC effects

Source		Cancer Risk Per Million	Annual PM 2.5	Hazard Index
Project Construction	Unmitigated	**77.22 (infant)**	**1.45**	0.06
	Mitigated	**4.09 (infant)**	0.25	<0.01
BAAQMD Single Source Threshold		10	0.3	1.0
Exceeds Threshold?	Unmitigated	**Yes**	**Yes**	No
	Mitigated	No	No	No

Source: Illingworth and Rodkin Inc. *Wat Khmer Kampuchea Krom Temple Project Construction Community Risk Assessment*. June 14, 2021

During construction activities the proposed project would exceed the cancer risk and annual $PM_{2.5}$ thresholds established by BAAQMD. Mitigation measure MM-AIR-1.1 would be implemented to reduce emissions below thresholds and impacts to less than significant levels.

Source: Illingworth & Rodkin, Inc., June 14, 2021.

LOCATIONS OF OFF-SITE SENSATIVE RECEPTORS AND POINT SOURCE LOCATIONS | FIGURE 3.3-1

IMPACT AIR-1 The construction of the proposed project would result in nearby sensitive receptors being exposed to toxic air contaminant emissions of 77.22 cases per million people and 1.45 $\mu g/m^3$, which is in excess of BAAQMD threshold for cancer risk and annual $PM_{2.5}$ of 10 cases per million people and 0.3 $\mu g/m^3$ respectively. **(Significant Impact)**

Mitigation Measures

In addition to the Standard Permit Conditions above, the following mitigation measures would be required to be implemented during all excavation, soil off-haul, and construction activities to reduce TAC emissions impacts.

MM-AIR-1.1 Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or Director's designee that includes specifications of the equipment to be used during construction and that outlines how the mitigation measure shall be achieved. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- All diesel-powered off-road equipment (larger than 25 horsepower) operating on-site for more than two days continuously (or 20 hours total) shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) Tier 4 emission standards for particulate matter. If this is not feasible, the following measures would apply:
    - If Tier 4 equipment is not commercially available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall 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 achieves an 88 percent reduction in particulate matter exhaust.
    - Provide line power to the site to minimize the use of diesel-powered stationary equipment, such as generators.
- Stationary cranes shall be powered by electricity.
- Install electric line power during early construction phases to avoid use of diesel portable equipment, such as air compressors, concrete saws, and welders.

With the incorporation of Mitigation Measure MM-AIR-1.1, the mitigated risk and hazard values would be reduced to 4.09 cases per million and 0.25 $\mu g/m^3$, respectively, which is below the BAAQMD single-source significance thresholds. Therefore, the proposed project would result in a less than significant TAC impact with mitigation incorporated. **(Less than Significant Impact with Mitigation Incorporated)**

Operational Impacts

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a project site (i.e., influence area). These sources include rail lines, highways, busy surface streets, and stationary sources identified by BAAQMD.

A review of the project area and based on provided traffic information indicated that no roadways within the influence area would have traffic exceeding 10,000 vehicles per day (the highest volume for a roadway near the project is 8,755 trips per day) and the proposed project would not contribute more than 104 daily trips to roadways near the project site. During the occasional large events, approximately 20 times per year the proposed project would contribute a higher number of trips to streets near the project site (a maximum of 600 trips in a day based on the limit of 300 attendees), however this would not represent a permanent change to the operations of nearby roadways and the trips would be dispersed to multiple sites given attendees would be utilizing of-site parking. Additionally, attendees would be operating standard passenger vehicles which do not contribute to considerable TAC emissions, and the project does not require frequent trips of heavy trucks, which are the primary source of TACs from roadways. Therefore, the project's increase in traffic would be a negligible source of TACs and PM2.5. **(Less than Significant Impact)**

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

The proposed project would introduce religious assembly uses including monk group housing residence quarters to the project site which would not produce emissions which would create unpleasant odors for residents on or around the project site. This is because most ceremonies would occur within on-site Temple and community structures, and in the event that incense is used outside the Temple buildings, near the center of the site, the small amounts used would not substantially contribute to odors in the area because they would be diffused in the outside air. During construction of the proposed project, operation of construction vehicles may result in temporary odors related to fuel combustion, but these would be temporary and would not affect a substantial number of people and would therefore not result in a significant impact. Therefore, the proposed project would not result in other emissions including odors, which may adversely affect a substantial number of people. **(Less than Significant Impact)**

3.3.2.2 *Cumulative Impacts*

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

As stated in Table 3.0-1, 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 by generating emissions below applicable thresholds, project criteria pollutants would not result in a cumulatively considerable contribution to regional ai quality impacts.

Combined Impact of All TAC Sources on the Off-Site Construction MEI

A community health risk assessment typically considers all substantial sources of TACs located within 1,000 feet of a project site.[15] These sources can include rail lines, highways, busy surface streets, and stationary sources identified by BAAQMD. A review of the project area indicates that that no roadways within the influence area would have traffic exceeding 10,000 vehicles per day. A review of BAAQMD's stationary source geographic information systems (GIS) map tool identified no stationary sources with the potential to affect the project site and MEI. Figure 3.3-2 shows there are no additional sources affecting the project site and MEI beyond the proposed project construction activity.

Table 3.3-6 Impacts from Combined Sources at Project MEI

Source		Cancer Risk Per Million	Annual PM 2.5	Hazard Index
Project Construction	Unmitigated	**77.22 (infant)**	**1.45**	0.06
	Mitigated	4.09 (infant)	0.25	<0.01
BAAQMD Cumulative Source Threshold		>100	>0.8	>10
Exceeds Threshold?	Unmitigated	No	**Yes**	No
	Mitigated	No	No	No

Source: Illingworth and Rodkin Inc. *Wat Khmer Kampuchea Krom Temple Project Construction Community Risk Assessment*. June 14, 2021

Table 3.3-6 above reports the cumulative community risk impacts at the sensitive receptor most affected by construction and operation (i.e., the MEIs). Project cancer risk of 77.22 cancer cases per million would not exceed the cumulative risk threshold of 100 cases per million, but would nonetheless be mitigated to 4.09 cases per million given the project emissions exceed the single-source threshold of ten cases per million. The unmitigated annual $PM_{2.5}$ concentration would exceed their cumulative thresholds of 0.8 $\mu g/m^3$ for $PM_{2.5}$ concentration. The incorporation of the aforementioned construction standard permit conditions and mitigation measure MM-AIR-1.1 would reduce these levels to below the cumulative and single source significance thresholds. **(Less than Significant Cumulative Impact with Mitigation Incorporated)**

[15] Developments under planning review are not included within the cumulative analysis since it is speculative to include construction emissions from projects that may or may not be approved, and if approved, when and how they may be constructed, both of which are factors necessary to account for their construction health risk effects.

Source: Illingworth & Rodkin, Inc., June 14, 2021.

Sources of TACs near Project Site | FIGURE 3.3-2

3.4 BIOLOGICAL RESOURCES

Information in this section is based on the Arborists Report prepared for the project by *Urban Tree Management* in December 2019. This report is included in Appendix C.

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.[16] 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

[16] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed April 5, 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 and Local

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.

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. Tree removal 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.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to biological resources, as listed below.

General Plan Policies – Biological Resources	
Special Status Plants and Animals	
Policy ER-4.4	Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
Migratory Birds	
Policy ER-5.1	Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.
Policy ER-5.2	Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
Urban Natural Interface	
Policy ER-6.5	Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
Community Forest	
Policy MS-21.4	Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.
Policy MS-21.5	As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.
Policy MS-21.6	As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.
Policy MS-21.7	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.
Community Design Policies – Attractive City	
Policy CD-1.24	Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

3.4.1.2 *Existing Conditions*

Special Status Species

The project site is located in a developed, urban area in San José. The site was previously developed with a single-family home and some outbuildings, however these were demolished in 2020 and the site is currently vacant. No sensitive habitats or wetlands are on or adjacent to the project site.[17] The project site is approximately 1.5 miles from the nearest creek, Thompson Creek, and 1.2 miles away from the nearest other water body, Cunningham Lake. Habitat in developed areas, such as the project site, are extremely low in species diversity. Species using developed habitat are predominantly urban adapted birds and animals, such as doves, squirrels, and domestic and feral cats. Rare, threatened,

[17] Santa Clara Valley Habitat Agency. SCVHCP Geobrowser. Accessed February 4, 2022.

endangered and sensitive plants, animals and natural communities are not expected or likely to occur on the project site.[18]

The project site is located within the Santa Clara Valley Habitat Plan (SCVHP) study area and is designated as "Urban-Suburban" land. "Urban-Suburban" land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as having one or more structures per 2.5 acres. According to the SCVHP Geobrowser, the project site is not in an identified land cover fee zone, nor is it within a burrowing owl fee zone, meaning that burrowing owls are not known to locate in the area. There are also no migratory corridors or nursery sites on or near the project site.

Trees

There are a total of 13 native and non-native tree species on-site, and the specifics of the tree species are summarized in Table 3.4-1 below. Sixteen on site trees are marked for removal in addition to six off-site trees (two of which are already removed from the site).

Table 3.4-1 Tree Species On-site

Tree Tag Number	Common Name	Scientific Name	Diameter at Breast Height (inches)	To be removed
120	Common Juniper	Juniperus communis	20	
121	Pepper	Schinus molle	27/15	
122*	Grapefruit	Citrus paradisi	8.5/6.5/6	X
123*	Avocado	Persea americana	21/17.5	X
124*	Hollywood Juniper	Juniperus chinensis	20	X
125*	Common Juniper	Juniperus communis	5/4/3/2	X
126*	Common Juniper	Juniperus communis	5/4/3/2	X
127*	Queen palm	Syagrus romanzoffiana	28	X
128*	Hollywood juniper	Juniperus chinensis	21	X
129**	Monterey Pine	Pinus radiata	34	X
130**	Elm	Ulmus americana	42	X
131*	Queen Palm	Syagrus romanzoffiana	30	X
132**	Elm	Ulmus americana	46	X
133**	Elm	Ulmus americana	40.5	X
134**	Elm	Ulmus americana	17/15/15/14	X
136*	Plum	Prunus americana	7	X
137*	King sago palm	Cycas revoluta	36	X
138*	King sago palm	Cycas revoluta	38	X
139*	Pepper	Schinus molle	39/31	X
140*	Monterey Pine	Pinus radiata	20	X
141*	Monterey Pine	Pinus radiata	28	X
142*	Marina Strawberry Tree	Arbutus marina	6/6/5/4/3/2	X
143	Elm	Ulmus americana	2/2/1.5/1.5/1.5/1.5/1.5	
144	Oleander	Nerium oleander	3/3/3/2.5/2/2	
145	Elm	Ulmus americana	6/2.5/2	
146	Plum	Prunus americana	2	

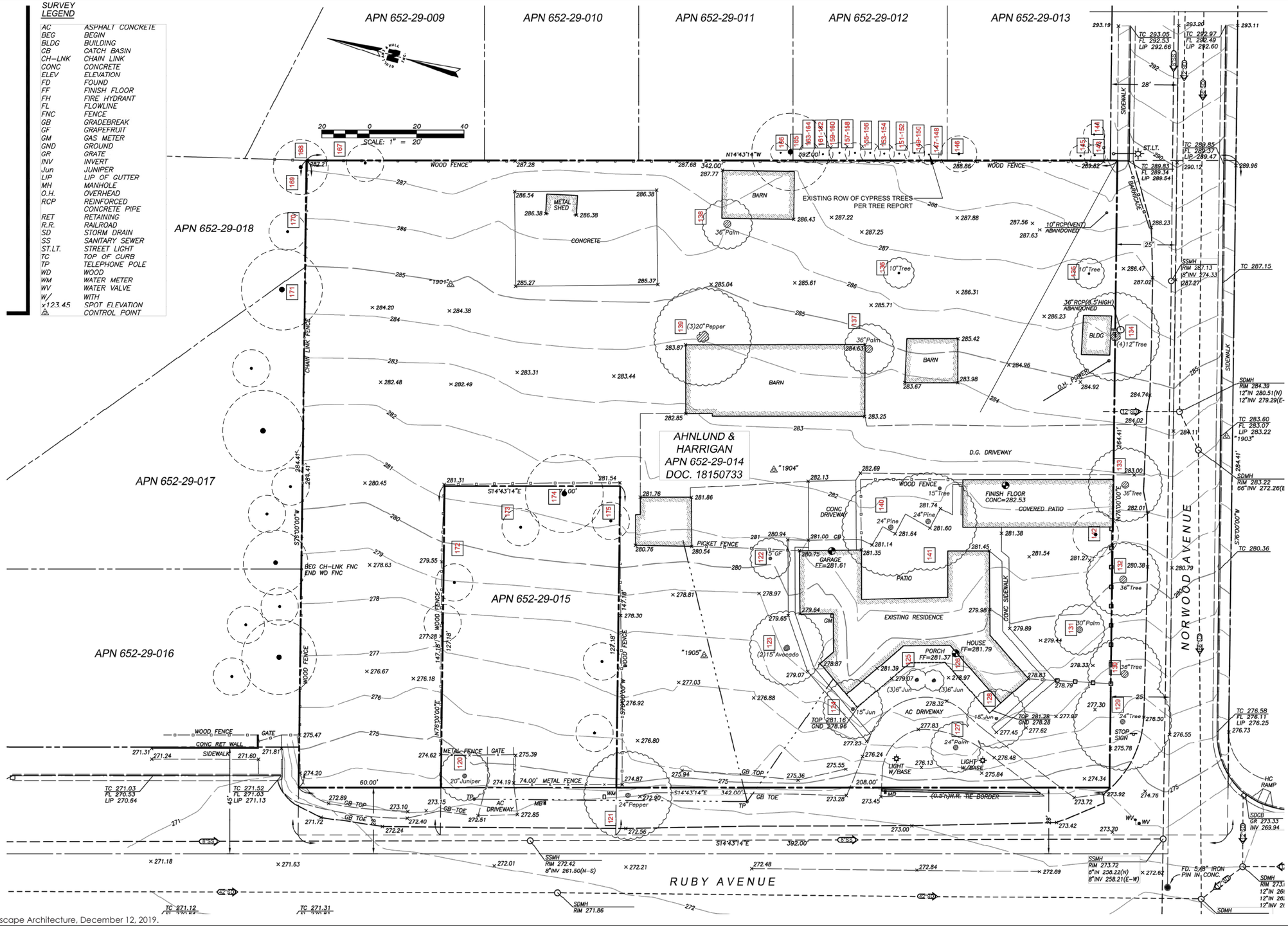
[18] Santa Clara Valley Habiat Agency. SCVHCP Geobrowser. Accessed February 4, 2022.

147	Common juniper	Juniperus communis	4	
148	Common juniper	Juniperus communis	6	
149	Common juniper	Juniperus communis	3	
150	Common juniper	Juniperus communis	5	
151	Common juniper	Juniperus communis	3	
152	Common juniper	Juniperus communis	6	
153	Common juniper	Juniperus communis	2.5	
154	Common juniper	Juniperus communis	5	
155	Common juniper	Juniperus communis	2.5	
156	Common juniper	Juniperus communis	4.5	
157	Common juniper	Juniperus communis	2	
158	Common juniper	Juniperus communis	4.5	
159	Common juniper	Juniperus communis	2	
160	Common juniper	Juniperus communis	3	
161	Common juniper	Juniperus communis	1.5	
162	Common juniper	Juniperus communis	1.5	
163	Common juniper	Juniperus communis	3	
164	Common juniper	Juniperus communis	1	
165	Common juniper	Juniperus communis	2	
166	Long leaf pine	Pinus palustris	16	
167*	Elm	Ulmus americana	6/6	X
168**	Plum	Prunus americana	2.5/2/1.5/1.5	X
169	Oleander	Nerium oleander	2/2/2/1.5/1.5/1	
170	Oleander	Nerium oleander	2/2/2/2/1.5/1.5	
171	Pepper	Schinus molle	7	
172	Eucalyptus	Eucalyptus obliqua	14/12/10	
174	Pepper	Schinus molle	18/16/16/16	

*On-site Tree to Be removed
**Off-site Tree to be removed
Note: all other unstarred trees are located adjacent to the site.
Source: Urban Tree Management. Arborist Report. December 12, 2019.

SURVEY LEGEND

AC	ASPHALT CONCRETE
BEG	BEGIN
BLDG	BUILDING
CB	CATCH BASIN
CH–LNK	CHAIN LINK
CONC	CONCRETE
ELEV	ELEVATION
FD	FOUND
FF	FINISH FLOOR
FH	FIRE HYDRANT
FL	FLOWLINE
FNC	FENCE
GB	GRADEBREAK
GF	GRAPEFRUIT
GM	GAS METER
GND	GROUND
GR	GRATE
INV	INVERT
Jun	JUNIPER
LIP	LIP OF GUTTER
MH	MANHOLE
O.H.	OVERHEAD
RCP	REINFORCED CONCRETE PIPE
RET	RETAINING
R.R.	RAILROAD
SD	STORM DRAIN
SS	SANITARY SEWER
ST.LT.	STREET LIGHT
TC	TOP OF CURB
TP	TELEPHONE POLE
WD	WOOD
WM	WATER METER
WV	WATER VALVE
W/	WITH
x123.45	SPOT ELEVATION
△	CONTROL POINT



Source: Strata Landscape Architecture, December 12, 2019.

LOCATION OF TREES ON-SITE

FIGURE 3.4-1

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?

Special-Status Species

As discussed in *Section 3.4.1.2*, based on the highly urbanized and previously developed nature of the project site and developed nature of the area surrounding the project site, natural communities or habitats for special-status plant and wildlife species are not present and would not be impacted, with the possible exception of nesting birds (described further below).

Nesting Birds

Development of the project would result in the removal of 20 trees, out of which 14 are on-site and six are off site that are being removed for sidewalk/public improvements. Trees could provide nesting habitat for birds, including migratory birds. Nesting birds are protected under provisions of the MBTA and CDFW code. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or removal and site grading that disturb a nesting bird on-site or immediately adjacent to the construction zone would constitute a significant impact.

Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on or near the site at the time of construction.

Mitigation Measures: The following mitigation measures would reduce and/or avoid impacts to nesting birds (if present on or adjacent to the site) to a less than significant level.

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

If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

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

The impact of the project on the developed habitat of the site would be less than significant due to the long history of development and disturbance on-site. With implementation of MM BIO-1, the project's impact to nesting birds would be less than significant. **(Less than Significant Impact with Mitigation Incorporated)**

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

The project site is located on a vacant, previously developed site within an urban area, which is not classified as a riparian area or sensitive natural community. The proposed project would not affect a riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS, as the nearest riparian area is over a mile away. Therefore,

the proposed project would have no impact on riparian habitat or other sensitive natural community. **(No 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 does not contain wetlands; therefore, any disturbance of the project site would not result in impacts to these resources. Therefore, the proposed project would not have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. **(No Impact)**

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

The project site is located more than a mile from any water bodies and is not with a migratory wildlife corridors or native wildlife nursery sites. Additionally, the project site does not provide habitat for native resident species on-site. Therefore, the proposed project would not interfere with the movement of native species on site, nor would the project effect migratory corridors or nursery sites for sensitive species in the area. **(Less than Significant Impact)**

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

The project site and adjacent areas contain 54 trees, with 14 trees on-site as shown in Table 3.4-1. The proposed project would require the removal of 20 existing trees on the project site, 13 of which are classified as native trees. Removal of trees would be required to conform to the replacement requirements as identified in the Municipal Code Section 13.28.300, General Plan Policies MS-21.4, MS-21.5, and MS-21.6 and City of San José Tree Removal Control (Municipal Code Section 13.31.010 to 13.32.100). The standard permit condition below would identify the replacement ratio for trees replaced as a part of the project.

Standard Permit Condition:

- **Tree Replacement.** A tree removal permit would be required from the City of San José for the removal of ordinance trees. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 3.4-2 below.

Table 3.4-2: Tree Replacement Ratios

Circumference of Tree to be Removed	Replacement Ratios Based on Type of Tree to be Removed			Minimum Size of Each Replacement Tree**
	Native	Non-Native	Orchard	
38 inches or more	5:1*	4:1	3:1	15-gallon

Table 3.4-2: Tree Replacement Ratios				
Circumference of Tree to be Removed	**Replacement Ratios Based on Type of Tree to be Removed**			**Minimum Size of Each Replacement Tree****
	Native	**Non-Native**	**Orchard**	
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
*x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. **A 24-inch box replacement tree = two 15-gallon replacement trees Single Family and two-dwelling properties may replace trees at a ratio of 1:1.				

20 trees onsite would be removed. Based on size and species, one tree would be replaced at a 1:1 ratio, no trees would be replaced at a 2:1 ratio or at a 3:1 ratio, eight trees would be replaced at a 4:1 ratio, and the remaining 11 trees would be replaced at a 5:1 ratio. The total number and size of replacement trees required to be planted is 88.

- If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement Department or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment.
    - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
    - Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

The project proposes a total of 87 trees on site, including 67 net new trees, which would be in excess of the trees required for replacement on the project site. There would be no net loss of trees on site due to the extensive planting of trees on-site and in the landscaped buffer. Therefore, with the inclusion of standard permit conditions the proposed project would have a less than significant impact on trees on-site. **(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. 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;
- 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 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 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 Conditions:

1. **Santa Clara Valley Habitat Plan.** The project will 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 Department or Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

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?

As stated above, the proposed project would result in localized biological impacts related to potentially nesting birds, which would be reduced through the implementation of standard permit conditions and mitigation measures on site. These less than significant impacts would be localized to the project site and adjacent parcels and because there are no other known projects or activities contributing to biological impacts near the project site, the proposed project would not contribute to a cumulative impact. By paying SCVHP fees, the project is contributing to conservation activities to offset the cumulative impacts to biological resources in San Jose and southern Santa Clara County. **(Less than Significant Cumulative Impact)**

3.5 CULTURAL RESOURCES

Information in this section is based on the Archaeological Resources Assessment Report prepared by *Basin Research Associates* in June 2021. The records search is available for review by qualified persons at the City of San José Department of Planning, Building and Code Enforcement.

3.5.1 Environmental Setting

3.5.1.1 *Regulatory Framework*

Federal and State

National Historic Preservation Act

Federal protection is legislated by the National Historic Preservation Act of 1966 (NHPA) and the Archaeological Resource Protection Act of 1979. These laws maintain processes for determination of the effects on historical properties eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA and related regulations (36 Code of Federal Regulations [CFR] Part 800) constitute the primary federal regulatory framework guiding cultural resources investigations and require consideration of effects on properties that are listed or eligible for listing in the NRHP. Impacts to properties listed in the NRHP must be evaluated under CEQA.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for state and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[19]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously 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, therefore, 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 processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that 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.

[19] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." Accessed April 5, 2021. http://www.ohp.parks.ca.gov/pages/1069/files/technical%20assistance%20bulletin%206%202011%20update.pdf.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act (Pub. Res. Code § 5097.9 et seq.) 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.

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

Local

Envision 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to Archaeology and Paleontology, as listed below. Goal ER-10 and Polices ER-10.1 to 10.3 are directly applicable to the proposed project.

General Plan Policies – Cultural Resources	
Goal ER-10	Archaeology and Paleontology Preserve and conserve archaeologically significant structures, sites, districts and artifacts in order to promote a greater sense of historic awareness and community identity.
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon their discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.
Policy ER-10.3	Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and

	paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

The City's Environmental Clearance Ordinance, adopted by the City of San Jose in compliance with CEQA, requires environmental clearance of all discretionary permits issued by the City, most public works projects, and all amendments proposed for the Envision General Plan (see Goal IP-12 and Policies IP-12.1 to 12.5).

Historic Preservation Ordinance

The City of San Jose Municipal Code Title 13 Streets, Sidewalks and Public Places, Chapter 13.48 Historic Preservation, provides specific information regarding: Definitions (13.48.020), Designation Procedure for designation of a landmark (13.48.110), and Procedure for designation of historic districts (13.48.120) and related aspects including the Historic resources inventory (13.48.050).

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.

3.5.1.2 *Existing Conditions*

Prehistoric Subsurface Resources

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 3,000 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.

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 approximately 1.5 miles east of Thompson Creek, a tributary of Coyote Creek, and is approximately 3.5 miles east of Coyote Creek.

The southern portion of the project area was designated as "archaeologically sensitive" in 2009 in the report prepared by Basin Research Associates in 2009. This designation is due to the proximity to Norwood Creek, approximately 250 feet south of Ruby Avenue, which is a creek that no longer exists physically near the site and has been developed and paved over. An extensive freshwater marsh was mapped ca. 1850 approximately 0.9 miles west of the project site in the southwestern corner of the Pala Rancho. This marsh was also developed and is no longer extant. The presence of the marsh and confluence of several creeks is an indicator of high archaeological sensitivity in the

Santa Clara Valley as Native American occupation is usually present within 0.25 miles of flowing and/or seasonal water courses.

Based on research and the pedestrian survey completed for the proposed project by Basin Research Associates, evidence suggests a low potential for the presence of subsurface prehistoric and/or significant historic era archaeological deposits.

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 time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe was established.

Post-Mission Period to Mid-20th Century

In the mid-1800's, the City of San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west.

Historic Built Environment

The project site is currently vacant and contains no structures. The project site was formerly occupied by a Mid-century Ranch style single-family house, a large equipment barn and several small accessory structures. The house was constructed in 1959 and the barn was constructed between 1910 and 1940. According to a Historic Resource Evaluation prepared by *Urban Programmers* in 2015[20], these structures lacked significant architectural design, workmanship, or materials and were not associated with significant historical figures. Therefore, the structures were not representative of historic structures according to City of San José standards. The non-house structures were in poor condition and not representative of good quality agricultural buildings, therefore, they were not considered individually significant or influential structures representative of the City of San José agricultural periods (1870-1945). All of the structures were removed in 2020.

Adjacent properties are also not listed on the City and County Inventories. The project site is not located within a designated historic district, conservation district, or landmark district.[21]

3.5.2 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?

[20] Urban Programmers. Historic Resource Evaluation for 2740 Ruby Avenue. December 16, 2015.
[21] City of San José. *2040 General Plan Integrated Final PEIR*. Figure 3.11-3 Historic Districts and Conservation Areas. Page 705. September 2011.

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?

3.5.2.1 *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?

The are no structures or other historical resources present on or in the immediate vicinity of the project site. Therefore, the proposed project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. **(Less than Significant Impact)**

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

The construction of the proposed project would require the disturbance of the project site and excavation for on-site utilities which may result in accidental discovery of subsurface cultural resources. In the opinion of the archaeologist who evaluated the site, the proposed project would not require subsurface testing for archeological resources, because the site was not found to be in an archeologically sensitive area and construction would be unlikely to encounter archeological resources on the site. However, as with virtually all ground disturbing construction, there is a potential for unknown resources to be found during excavation. In accordance with General Plan policy ER-10.3, the proposed project would be required to implement the following standard permit condition to reduce or avoid impacts to subsurface cultural resources.

Standard Permit Condition:

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist 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 PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

The proposed project would comply with the standard permit condition protecting subsurface resources and would therefore result in a less than significant impact. **(Less than Significant Impact)**

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

The construction of the proposed project would require the disturbance of the project site and excavation for on-site utilities. 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 Conditions:

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

    - The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
    - The MLD identified fails to make a recommendation; or
    - The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

The proposed project would comply with the standard permit condition protecting subsurface resources and would therefore result in a less than significant impact. **(Less than Significant Impact)**

3.5.2.2 *Cumulative Impacts*

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

The context for cumulative impacts to cultural resources is the area surrounding the project site. There are no known pending or foreseeable development projects in the immediate vicinity of the project. Any future cumulative projects occurring in the area may require excavation and grading or other activities that may affect unknown prehistoric cultural resources and/or historic resources. The proposed project would comply with standard permit conditions protecting currently undiscovered resources which may be found on the site. All cumulative projects occurring within the City of San José would be required to implement project-specific conditions of approval or mitigation measures that would avoid impacts to prehistoric and historic resources and/or reduce them to a less than significant level. As discussed earlier, there are no buildings or other historical resources present on or in the immediate vicinity of the project. Therefore, there are no project related historic resources impacts. **(Less than Significant 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 CO_2 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.[22] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[23]

[22] California Building Standards Commission. "California Building Standards Code." Accessed April 5, 2021. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[23] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed April 5, 2021. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.

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.[24]

Regional and Local

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 Jose 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 friendly 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.

City of San José Reach Building Code

In 2019, the San José City Council approved ordinance No. 30311 and adopted the 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 Rating and be electrification ready. In addition, the Reach Code requires EV charging infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

Energy and Water Building Performance Ordinance

In December 2018, the City of San José voted to adopt the Energy and Water Building Performance Ordinance consistent with Climate Smart San José. This ordinance requires commercial and multi-family buildings 20,000 square feet and over to track their yearly whole building energy and water usage data with the EPA platform ENERGYSTAR Portfolio Manager and share this data with the City. Implementation of the ordinance will help the City reach GHG emissions reduction and water conservation goals by encouraging efficiency in large commercial and multi-family buildings.

Municipal Code

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

3.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,802 trillion British thermal units (Btu) in the year 2019, the most recent year for which this data was available.[25] 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 19 percent (1,456 trillion Btu) for residential uses, 19 percent (1,468 trillion Btu) for commercial uses, 23 percent (1,805 trillion Btu) for industrial uses, and 39 percent (3,073 trillion Btu) for transportation.[26] 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.[27]

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

[25] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." April 9, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[26] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed April 9, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[27] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed April 9, 2021. http://ecdms.energy.ca.gov/elecbycounty.aspx.

GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

Natural Gas

PG&E provides natural gas services within the City of San José. In 2019, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[28] In 2019, residential and commercial customers in California used 33 percent of the state's natural gas, power plants used 26 percent, the industrial sector used 35 percent, and other uses used six percent.[29] Transportation accounted for one percent of natural gas use in California. In 2019, Santa Clara County used approximately two percent of the state's total consumption of natural gas.[30]

Fuel for Motor Vehicles

In 2019, 15.4 billion gallons of gasoline were sold in California.[31] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2019.[32] 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 mpg 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. [33,34]

Existing Energy Consumption

The project site is currently vacant and does not use energy for lighting or other uses.

3.6.2 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?

[28] California Gas and Electric Utilities. *2020 California Gas Report*. Accessed August 2, 2021. https://www.socalgas.com/sites/default/files/2020-10/2020_California_Gas_Report_Joint_Utility_Biennial_Comprehensive_Filing.pdf.
[29] United States Energy Information Administration. "State Profile and Energy Estimates, 2019." Accessed August 2, 2021. https://www.eia.gov/state/?sid=CA#tabs-2.
[30] California Energy Commission. "Natural Gas Consumption by County." Accessed April 9, 2021. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[31] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed April 9, 2021. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[32] United States Environmental Protection Agency. "The 2020 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." January 2021. https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1010U68.pdf.
[33] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed April 9, 2021. http://www.afdc.energy.gov/laws/eisa.
[34] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed April 9, 2021. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

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

c) Result in a substantial increase in demand upon energy resources in relation to projected supplies?

3.6.2.1 *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

The estimated duration for all construction activities would be approximately 24 to 28 months and is expected to occur from Summer 2022 to Fall 2024. It is conservatively assumed for the purposes of this analysis that the proposed project would be constructed over a period of 28 months (approximately 611 construction workdays). Construction activities would include excavation, grading, trenching, building construction, architectural coating, and paving. 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 identified in *Section 3.3 Air Quality*). Additionally, the project would be required to comply with the City's Construction and Demolition Diversion Program (discussed below in Section 3.19.2, Utilities and Service Systems).

Energy is consumed during construction because the use of fuels and building materials are fundamental to construction of new buildings. Energy would not, however, be wasted or used inefficiently by construction equipment and waste from idling would be further reduced with implementation of the identified Standard Permit Conditions listed in Section *3.3, Air Quality* and compliance with the City's diversion program.

Operations

The proposed project would construct a Buddhist temple which would result in a net increase in electricity usage of approximately 141,496 kWh and natural gas usage of approximately 442,118 kBtu compared to current conditions. Annual gasoline consumption as a result of the project would have a net increase of approximately 9,635 gallons of gasoline.

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, Action MS-2.11 (from the General Plan) requires development to incorporate green building practices through construction, architectural design, and site design techniques. The project would be designed and constructed in compliance with the City of San José Council Policy 6-32, CALGreen requirements, Title 24 of the City's Municipal Code, and the City's Green Building Ordinance.

The proposed project would not result in wasteful construction during construction or operation because, by their nature, construction operations are profit driven and utilize efficient processes to

prevent costly waste. The proposed project would incorporate standard permit conditions included in Section 3.3 Air Quality which would reduce impacts of construction activities and would comply with City policies to reduce operational energy use. Therefore, the proposed project would not result in significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **(Less than Significant Impact)**

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

The proposed project would construct a religious assembly use on a vacant lot which would increase the energy demand of the site compared to existing conditions. The temple on-site would be served by SJCE in order to reduce emissions associated with the consumption of energy by sourcing from green energy sources. The proposed project would be required to 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. For these reasons, implementation of the proposed project would not conflict or obstruct implementation of a state or local plan for renewable energy or energy efficiency **(Less than Significant Impact)**

c) Would the project result in a substantial increase in demand upon energy resources in relation to projected supplies?

The proposed project would construct a religious assembly use on a vacant lot which would increase the energy demand of the site compared to existing conditions. The standard operations of a temple would not result in energy consumption which would represent a substantial increase in demand because the proposed project would only result in the operations of lights, cooling and heating machinery, and other standard equipment uses on site. A finishing kitchen is proposed, but there would be no on-site cooking facilities[35]. The proposed use would not put undue strain on projected supplies of energy resources, therefore, the proposed project would have a less than significant impact. **(Less than Significant Impact)**

3.6.2.2 *Cumulative Impacts*

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

As stated above, the proposed project would not significantly increase the consumption of energy resources on site and would not result in impacts on projected demand for energy resources in relation to project supplies. Although the proposed project would increase energy consumption for the City of San José this increase is expected in the General Plan FEIR and would not represent a divergence from projected energy consumption. Therefore, the proposed project would result in a less than significant cumulative energy impact. **(Less than Significant Cumulative Impact)**

[35] A finishing kitchen is a space which would receive prepared food for reheating, assembling, portioning, and serving. The kitchen would include an induction range, combi oven, and microwave oven. The congregation may use some of this equipment, likely the microwave oven, to reheat food they have brought for lunch. However, the equipment will mainly be used by caterers to warm food brought to the site for larger events.

3.7 GEOLOGY AND SOILS

Information in this section is based on the Geotechnical Report for the proposed project prepared by *DIVIS Consulting* Inc. and dated November 2021. This report is included in Appendix D.

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 materials 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.

Local

City of San José Policies

Title 24 of the City of San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading).

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to geologic and seismic hazards, as listed in the following table.

General Plan Policies - Geology, Soils, and Seismic Hazards	
Emergency Management	
Policy 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.
Seismic Hazards	
Policy EC-3.1	Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.
Policy EC-3.2	Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.
Geologic and Soil Hazards	
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended

General Plan Policies - Geology, Soils, and Seismic Hazards	
	and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-4.2	Approve development in areas subject to soils and geologic hazards, including 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.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have 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.

3.7.1.2 *Existing Conditions*

Geologic Context

The project site is located on the eastern edge of the Santa Clara Valley near the base of the East San José Foothills. This area is underlain by Holocene age alluvium consisting of gravel, sand, and clay soils. Groundwater on site was found at depths of approximately 32 to 42 feet below existing surface grade.

Seismicity

There are three major faults that trend in a northwest direction through the Bay Area, which have generated approximately 12 earthquakes per century large enough to cause significant structural damage. These faults are part of the San Andreas fault system that extends for approximately 700 miles along the California Coast, and includes the San Andreas, Hayward, and Calaveras faults. The San Andreas Fault is located approximately 16 miles southwest of the site, the Hayward Fault is located approximately 0.5 miles northeast of the site, and the Calaveras Fault is located approximately 3.7 miles northeast of the site. In addition, a concealed trace of the potentially active Evergreen fault is mapped approximately 500 feet southwest of the site.

Liquefaction and Landslides

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. Based on the Santa Clara County Geologic Hazard Zones Map, the project area is not

located within a liquefaction zone.[36] The project area is relatively flat with about 15 feet of elevation change across the site and the site is not located within a potential landslide zone.

Soils

Exploratory borings on the project site encountered fine-grained alluvium with layers of coarse-grained alluvium at depth to the maximum depth of 45 feet, based on the deepest boring. The fine-grained alluvium predominantly consisted of stiff to hard lean clay and stiff to very stiff sandy silt. The coarse-grained alluvium consisted of dense to very dense silty to gravelly sand and dense to very dense sandy gravel. Based on laboratory tests conducted on exploratory boring materials, the soils were determined to have a medium potential for expansion with increases in moisture content.

3.7.2 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?

[36] County of Santa Clara. "Santa Clara County Geologic Hazard Zones." Map 21. Accessed August 16, 2021. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

3.7.2.1 *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?

As stated in the *Section 3.7.1.2* Existing Conditions, the project site is not located within a fault hazard, potential earthquake-induced landslide, or liquefaction hazard zone. Therefore, there would be no risk of loss of life, injury, or death associated with seismic-related ground failure, including liquefaction or landslides.

The project site would be subject to strong seismic ground shaking in the event of a large earthquake. Consistent with the City's General Plan and Municipal Code and the California Building Code, as adopted by the City, to avoid and/or minimize potential damage from seismic shaking, the proposed project would be built using standard engineering and seismic safety design techniques. Consistent with these requirements, the following standard permit condition would be implemented to ensure the proposed development is designed to address seismic hazards.

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.

Through compliance with the building code, the magnitude and extent of earthquake-related damage can be mitigated to a degree by utilizing an upgraded structural design. Therefore, the risk of loss, injury, or death resulting from strong seismic ground shaking would be less than significant. **(Less than Significant Impact)**

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

The proposed project would require the disturbance of loose soil on the project site which could make the soil more susceptible to erosion during construction activities. The regional NPDES Permit (aka Municipal Regional Permit – refer to *Section 3.10 Hydrology and Water Quality*) and the City's urban runoff policies and Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The Program EIR for the General Plan concluded that with the regulatory programs currently in place, the possible impacts of accelerated

erosion during construction would be less than significant[37]. The City shall require all phases of the project to comply with all applicable City regulatory programs pertaining to construction related erosion, including implementation of the following standard permit conditions:

Standard Permit Conditions:

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the City of 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.

Through compliance with erosion control measures recommended above, the proposed project would limit the disturbance of soil on the site and would reduce potential for soil erosion. Therefore, the proposed project would result in less than significant soil erosion impacts. **(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?

As stated above, the proposed project is located outside of areas susceptible to landslide, subsidence, or liquefaction. Additionally, the project site is not located on landforms which would experience lateral spreading or collapse in the event of seismic shaking such as cliffs or areas near water bodies. Therefore, the proposed project is not located on an unstable geologic unit and would not become unstable as a result of the proposed project. **(No 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?

Soils on the project site were determined to have a medium potential for expansion with changes in moisture content. Structures supported by this type of soil are exposed to cycles of heave and settlement which may result in damage if structures are not constructed with proper structural design. As stated under project impact a), building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. This would include constructing the project in such a manner as to reduce the effects of underlying expansive soils. Therefore, through compliance with standard measures established in the California Building Code, and the standard permit conditions as adopted by the City, the proposed project would result in a less than significant impact associated with expansive soils. **(Less than Significant Impact)**

[37] City of San José. *Draft Program Environmental Impact Report for the Envision San José 2040 General Plan.* SCH# 2009072096. Page 515.

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 proposed project would utilize the City's sanitary sewer system and would not require the use of septic tanks or alternative wastewater disposal. Therefore, the proposed project would have no impact. **(No Impact)**

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

The proposed project would require minor excavation of the project site for installation of utilities and construction of foundations for structures. While it is not expected that this construction would encounter paleontological resources on site, there is a potential for the project to uncover and disturb previously unknown resources on-site.

The General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. As such, the following standard permit condition would be required to be implemented by the proposed project to reduce and avoid impacts to unidentified paleontological resources.

Standard Permit Condition:

- **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement (PBCE) 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 PBCE or the Director's designee.

Through compliance with the standard permit condition above, the proposed project would reduce potential impacts associated with discovery and disturbance of unknown paleontological resources on site. Therefore, the proposed project would result in a less than significant impact. **(Less than Significant Impact)**

3.7.2.2 *Cumulative Impacts*

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

Cumulatively, all other projects analyzed in the City and vicinity of the project site will be subject to similar geology, soils, and seismicity impacts as the proposed project. All cumulative projects occurring within the City are required to implement conditions of approval, mitigation measures, and ensure consistency with the CBC to avoid impacts related to seismic, geologic, and soils hazards and/or reduce them to a less than significant level.

Adherence to the standard permit conditions for discovery of paleontological resources would ensure that such resources are not significantly impacted by the proposed project. Cumulatively, other projects in the City would also be required to implement similar permit conditions or mitigation measures.

For these reasons, the cumulative projects, including the proposed project, would not result in significant cumulative geologic and soils impacts. **(Less than Significant Cumulative Impact)**

3.8 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on a Greenhouse Gas Reduction Strategy (GHGRS) compliance checklist prepared by the project applicant in September 2021. A copy of this checklist is attached as Appendix E to the EIR.

3.8.1 Environmental Setting

3.8.1.1 *Background Information*

Greenhouse Gases (GHGs) are gases that trap heat in the atmosphere and 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 CO_2 equivalents (CO_2e). The most common GHGs are carbon dioxide (CO_2) and water vapor but there are also several others, most importantly methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- CO_2 and N_2O are byproducts of fossil fuel combustion.
- N_2O is associated with agricultural operations such as fertilization of crops.
- CH_4 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 SF_6 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 CO_2E ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

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 and Local

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.

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.

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 Jose. 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 EV charging infrastructure for all building types (above current CalGreen requirements), and solar readiness for non-residential buildings.

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 GHGRS is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies 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. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[38]

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)

[38] City of San José. Greenhouse Gas Reduction Strategy. November 2020. Accessed April 5, 2021. https://www.sanjoseca.gov/your-government/department-directory/planning-building-code-enforcement/planning-division/environmental-planning/greenhouse-gas-reduction-strategy.

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)

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

The following policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to greenhouse gas emissions and are applicable to the project. 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 4.3 Air Quality, 4.6 Energy, and 4.16 Transportation for these policies.

General Plan Policies - GHG Emissions	
Policy 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.
Policy 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.
Policy MS-2.3	Utilize solar orientation (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
Policy MS-2.11	Require new development to incorporate green building 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.).
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.

General Plan Policies - GHG Emissions	
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
Policy MS-14.4	Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.
Policy 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.
Policy TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations city wide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.

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 site is currently vacant and generates no GHGs.

3.8.2 Impact Discussion

For the purpose of determining the significance of the project's impact on GHGs, 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 on-site would result in temporary GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. 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. Based on the construction equipment

proposed and other mobile source emissions during construction, project construction would emit an average of approximately 243 MT/year of CO_2e. As noted above, there is no established numeric threshold for construction GHG emissions. Because construction would be temporary (up to approximately 28 months) and would not result in a permanent increase in emissions or exceed an established numeric thresholds, the proposed project would not interfere with the implementation of AB 32 in 2020 or SB 32 in 2030. **(Less than Significant Impact)**

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.

As previously mentioned, the City has the GHGRS in order to review compliance with the State's goal of 2030 reduction. The project is consistent with the General Plan land use designation and would be required to meet the pedestrian and circulation standards established by the City of San José. The site's General Plan land use designation is Residential Neighborhood, and while the project is not primarily a residential use (although it does include monk resident group housing quarters), the project's GHG emissions are encompassed within the citywide modeling completed for the GHGRS, which accounted for religious assembly uses among the broad inventory of land uses within the City. The subject site is proposed to be developed with nearly 13,902 square feet of building area (Temple Sanctuary building and Community building combined), and based on an average home size of 2,500 square feet per home, this is roughly equivalent to six new single-family homes. This amount of development (up to six single-family homes on 1.86 acres, or average lot sizes of 13,500 square feet), is in keeping with the site's Residential Neighborhood land use designation applied to the 1.86 acre site, and the proposed project would result in less development than could conceivably occur if the site were developed with smaller single family lots.

The project would also enroll into the City of San José Clean Energy and would utilize solar panels on the community building to comply with GHGRS #1 and #3. Additionally, the proposed project would include green waste compost bins and will divert construction waste to meet or exceed city requirements which supports GHGRS #5. All water fixtures on site would be low flow exceeding code, complying with GHGRS #7. Therefore, the development assumptions used for the site in the City's GHGRS were sufficiently conservative to account for the religious assembly uses' GHG emissions and the project is covered by the GHGRS. **(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?

As discussed above, the project is consistent with the City's GHGRS for 2030 emissions, and therefore is also consistent with statewide goals for reducing GHG emissions.
(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?

The discussion above addresses the project's contribution to the cumulative GHG emissions impacts on a regional, statewide, and global basis. Cumulatively considerable GHG emission impacts from cumulative development in the City of San José would be avoided by implementing measures included in the City's GHGRS and Climate Smart San José. **(Less than Significant Cumulative Impact)**

3.9 HAZARDS AND HAZARDOUS MATERIALS

Information in this section is based on the Phase I Environmental Site Assessment (ESA) prepared by Cornerstone Earth Group in October 2020. Additionally, the information in this section is based on the Preliminary Soil Quality Evaluation prepared by Cornerstone Earth Group in August 2021. These reports are included in Appendix F.

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.

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. Over five years, $1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA accomplished the following objectives:

- Established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- Provided for liability of persons responsible for releases of hazardous waste at these sites; and
- Established a trust fund to provide for cleanup when no responsible party could be identified.

The law authorizes two kinds of response actions:

- Short-term removals, where actions may be taken to address releases or threatened releases requiring prompt response; and
- Long-term remedial response actions that permanently and significantly reduce the dangers associated with releases or threats of releases of hazardous substances that are serious, but not immediately life-threatening. These actions can be completed only at sites listed on the EPA's National Priorities List.

CERCLA also enabled the revision of the National Contingency Plan (NCP). The NCP provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The NCP also established the National Priorities List. CERCLA was amended by the Superfund Amendments and Reauthorization Act on October 17, 1986.[39]

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste. RCRA gives the EPA the authority to control hazardous waste from the "cradle to the grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also sets forth a framework for the management of non-hazardous solid wastes.

The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization, phasing out land disposal of hazardous waste, and corrective action for releases. Some of the other mandates of this law include increased enforcement authority for the EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.[40]

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

[39] United States Environmental Protection Agency. "Superfund: CERCLA Overview." Accessed April 5, 2021. https://www.epa.gov/superfund/superfund-cercla-overview.
[40] United States Environmental Protection Agency. "Summary of the Resource Conservation and Recovery Act." Accessed April 5, 2021. https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[41]

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 reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

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.

Local

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.

[41] California Environmental Protection Agency. "Cortese List Data Resources." Accessed April 5, 2021. https://calepa.ca.gov/sitecleanup/corteselist/.

General Plan Policies - Hazards and Hazardous Materials	
Hazardous Materials	
Policy EC-6.1	Require all users and producers of hazardous materials and wastes to clearly identify and inventory the hazardous materials that they store, use or transport in conformance with local, state and federal laws, regulations and guidelines.
Policy EC-6.2	Require proper storage and use of hazardous materials and wastes to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal by businesses and residences. Requires proper disposal of hazardous materials and wastes at licensed facilities.
Policy 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.
Policy EC-6.7	Do not approve land uses and development that use hazardous materials that could impact existing residences, schools, day care facilities, community or recreation centers, senior residences, or other sensitive receptors if accidentally released without the incorporation of adequate mitigation or separation buffers between uses.
Environmental Contamination	
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.
Policy EC-7.3	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.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for

General Plan Policies - Hazards and Hazardous Materials	
	contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.
Safe Airport	
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy TR-14.3	For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid-Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the State Aeronautics Act, Public Utilities Code Section 21670 et seq.
Policy TR-14.4	Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.
Community Health, Safety, and Wellness	
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy CD-5.9	To promote safety and to minimize noise and vibration impacts in residential and working environments, design development that is proposed adjacent to railroad lines to provide the maximum separation feasible between the rail line and dwelling units, yards, or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, devote areas of development closest to an adjacent railroad line to use as parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth. In industrial facilities, where the primary function is the production, processing or storage of hazardous materials, for new development follow the setback guidelines and other protective measures called for in the City's Industrial Design Guidelines when such facilities are to be located adjacent to or near a main railroad line.

3.9.1.2 *Existing Conditions*

Historic Uses of the Project Site and Surrounding Land Uses

The project site was previously part of a 160-acre fruit ranch operated from the late 1860s to 1937. The site was used for agricultural purposes for several decades. Former on-site structures included two residences, a large barn, and several other sheds and outbuildings, which were recently demolished. A prior historic resource evaluation[42] noted that the previously demolished residences on-site were constructed during the 1950s and that the various outbuildings were constructed between 1910 and 1940. However, the Phase I ESA indicated that some of these structures were present since at least the late 1800s. These structures have all been removed from the project site

[42] Urban Programmers. Historic Resource Evaluation for 2740 Ruby Avenue. December 16, 2015.

under demolition permit 2019-140874-RS and any hazardous materials, such as asbestos or PCBs, associated with these structures would therefore not be present on site.

On-Site Hazards or Hazardous Materials

The Phase 1 ESA determined that the site does not currently have hazardous materials stored on site and has not had hazardous materials stored on site in the past. Additionally, there are no known hazardous spills identified on the Cortese List within the project site. Although there are no spills on site, the historical agricultural use and structures on site may have contributed to pesticide concentration on site or residual lead deposits from lead-based paints.

Based on soil sampling conducted for the project site in August 2021, the soils on site were determined to have quantities of DDT, alpha-Chlordane, Technical Chlordane, arsenic, and lead in excess of residential environmental screening criteria established by the RWQCB, San Francisco Bay Region, which are addressed below.

Surrounding Hazards or Hazardous Materials

There are no identified environmentally recognized conditions in the areas surrounding the project. No hazardous material spill incidents were reported in the Site vicinity that could impact the site.

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?

Construction

Construction of the proposed project would involve the use of standard hazardous materials, including vehicle fuels, oils, and fluids. All hazardous materials would be transported, contained, stored, used, and disposed of in accordance with manufacturers' instructions and would be handled in compliance with all applicable standards and regulations. Construction-related hazardous materials use would be temporary, and does not constitute routine transport, use, or disposal.

The proposed religious assembly project would routinely use limited amounts of cleaning materials that would be handled, stored, and disposed of in accordance with state and local regulations. The project would not include activities that would emit hazardous emissions or use acutely hazardous materials; therefore, the project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **(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?

Soil Contamination

As mentioned in *Section 3.9.1.2* the project site is not listed on any regulatory databases related to soil contamination or otherwise. Based on the age of previous structures at the site, LBP and termiticides (pesticides) may have been used leaving residual concentrations in soil. Soil adjacent to structures that are painted with lead-containing paint can become impacted with lead as a result of the weathering and/or peeling of painted surfaces. Soil near wood framed structures also can be impacted by pesticides historically used to control termites. To perform a preliminary evaluation of whether shallow soil had been impacted by prior uses and activities on and adjacent to site, soil samples were collected from accessible locations and were analyzed for organochlorine pesticides (OCPs), arsenic, mercury and lead.

As discussed in *Section 3.9.1.2* above, soil samples detected concentrations of 4,4'-DDD, 4,4'-DDE, 4,4'- DDT, alpha-chlordane, technical chlordane, arsenic, and/or lead above their respective residential and/or commercial human health risk environmental screening criteria. The source of the contamination is likely associated with the project site's prior history of agricultural use, application of lead-based paint to structures, and/or the application of termiticides to foundations of the wood-framed structures. Greater contaminant concentrations were detected in the soil samples collected near the former on-site structures and may be limited to the upper few feet of soil around the building footprint. Therefore, the presence of hazardous materials in soil would represent a risk to construction workers on-site and nearby residents.

Impact HAZ-1: Development of the proposed project could result in impacts to construction workers, neighboring properties, future site occupants and the environment from exposure to hazardous soil containing pesticides from prior land uses. **(Significant Impact)**

Mitigation Measures: In conformance with local, state, and federal regulations, the project shall implement the following mitigation measures to reduce soil contamination impacts associated with redevelopment of the site to a less than significant level.

MM HAZ-1.1: Prior to issuance of any grading permits, the project applicant shall complete a site cleanup program with an oversight agency such as Santa Clara County Department of Environmental Health (SCCDEH), or equivalent (i.e. Department of Toxic Substance Control [DTSC]). The project applicant shall meet with the oversight agency and may be required to perform additional soil, soil gas and/or groundwater sampling and testing to adequately define the known and suspected contamination from past agricultural use and any other past uses of concern. A Site Management Plan (SMP), Corrective Action Plan, Remedial Action Plan, or other equivalent plan shall be prepared and submitted to the SCCDEH for their approval. The Plan shall include a Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

With the implementation of the above required mitigation measures, the project would not 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. **(Less Than Significant Impact with Mitigation Incorporated)**

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?

There are no schools located within a quarter mile of the project site. The proposed project is located approximately 0.4 miles from the nearest school, Norwood Creek Elementary School. The proposed project would not create a source of hazardous emissions nor would operations of the project require the routine transport of hazardous materials. Therefore, the proposed project would result in no impact to local schools from hazardous materials. **(No 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?

As stated above in *Section 3.9.1.2*, and as documented by the Phase I ESA, there are no hazardous materials sites, as identified on the lists under Government Code Section 65962.5. Additionally, there are no sites near the project which may contribute to contaminated groundwater blooms affecting groundwater or other leaking underground storage tanks. Therefore, the proposed project would have a less than significant hazard to the public and environment associated with hazardous materials sites on the project site and in the surrounding area. **(Less than Significant Impact)**

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?

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 reflective surfaces, flashing lights, electronic interference, and other potential hazards to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects located within an extended zone defined by a set of imaginary surfaces radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure taller than approximately 70 feet above ground is required under FAR Part 77 to be submitted to the FAA for review.

The maximum height of Temple Sanctuary building would be approximately 43 feet 5 inches to the top of the temple roof and approximately 64 feet 10 inches to the top of the temple spire (steeple) (See Figure 2.1-5) from grade (342.3 feet above mean sea level), which is below the minimum height that would require FAA airspace review. The proposed project is located approximately 1.66 miles away from the Reid Hillview Airport and 7.27 miles away from the Norman Y. Mineta International Airport. The Reid Hillview Airport Land Use Plan identifies the Airport Safety Zones for the airport operations. The project site is located outside the designated airport safety zone, therefore the proposed project would not result in a safety hazard or excessive noise for people residing or working in the project area. **(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 proposed project would construct a religious assembly on an existing vacant lot without modifying the existing roadway network. As explained in more detail above in Section 3.7 Geology and Soils, the project would be constructed in accordance with current building and fire codes in accordance with applicable City policies to avoid unsafe building conditions. Furthermore, projects are required to coordinate with the City for major construction that may temporarily affect public right of way. This project would be reviewed by Building Division and Fire Department in order to ensure it would comply with applicable emergency policies and ordinances and would not inhibit with the operations of an existing emergency response plan or emergency evacuation plan. Therefore, the proposed project would result in a less than significant impact. **(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 would include monks' residence quarters, however, the site is not located within the high fire hazard severity zone as defined by Cal Fire.[43] Therefore, the proposed project would not expose people or structures to significant risk of loss of life, injury, or death. **(No 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?

Many of the properties in the City of San José and surrounding cities were used for agricultural purposes prior to their development for industrial and residential uses and agricultural chemicals such as pesticides and fertilizers may have been used on-site in the past. The use of these chemicals can result in widespread residual soil contamination, sometimes in concentrations that exceed regulatory thresholds. In addition, development and redevelopment of some of the sites may require demolition of existing buildings that may contain ACMs and/or lead paint. Demolition of these structures could expose construction workers or other persons in the vicinity to harmful levels of asbestos or lead.

Based on the above-described conditions, which are present on most project sites to varying degrees, potentially significant environmental impacts could occur under the cumulative development scenario since such conditions can lead to the exposure of residents and/or workers to substances that have been shown to adversely affect health. Each of the cumulative projects under consideration would be required to assess the potential for past or current hazardous site conditions to affect, or be affected by, the proposed project. In accordance with General Plan policies, cumulative projects would include mitigation measures or permit conditions to reduce potential impacts from the project to the health and safety of the public and the environment. Measures would include incorporating the requirements of applicable existing local, State, and federal laws, regulations, and agencies such as DTSC and Cal/OSHA, during all phases of project development. By adhering to federal and State regulations, City policies, and the mitigation measures set forth in this section, the proposed project would not result in a significant hazardous materials impact, nor would it result in a cumulatively considerable contribution to a significant hazards and hazardous materials impact. **(Less than Significant Cumulative Impact)**

[43] California Department of Forestry and Fire Protection. San José Very High Fire Hazard Severity Zones in LRAs Recommended by CAL Fire.

3.10 HYDROLOGY AND WATER QUALITY

3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

Federal and State

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 Environmental Protection Agency (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 San Francisco Bay RWQCB.

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) must be filed with the RWQCB by the project sponsor, and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared by a qualified professional prior to commencement of construction and filed with the RWQCB by the project sponsor. 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 and Local

San Francisco Bay Basin Plan

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

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

Municipal Regional 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.[44] 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.

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

2016 Groundwater Management Plan

This 2016 Groundwater Management Plan (GWMP) describes the Valley Water's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, which are located entirely in Santa Clara County. Valley Water manages a diverse water supply portfolio, with sources including groundwater, local surface water, imported water, and recycled water. About half of the county's water supply comes from local sources and the other half comes from imported sources. Imported water includes the District's State Water Project and Central Valley contract supplies and supplies delivered by the San Francisco Public Utilities Commission (SFPUC) to cities in northern Santa Clara County. Local sources include

[44] MRP Number CAS612008

natural groundwater recharge and surface water supplies. A small portion of the county's water supply is recycled water.

Local groundwater resources make up the foundation of the county's water supply, but they need to be augmented by the District's comprehensive water supply management activities to reliably meet the county's needs. These include the managed recharge of imported and local surface water and in-lieu recharge through the provision of treated surface water, acquisition of supplemental water supplies, and water conservation and recycling.[45]

Post-Construction Urban Runoff Management (City Council Policy No. 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the MRP. City Council Policy No. 6-29 requires new development and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs). This policy also established specific design standards for post-construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

Post-Construction Hydromodification Management (City Council Policy No. 8-14)

The City of San José's Policy No.8-14 implements the hydromodification management requirements of Provision C.3 of the MRP. Policy No. 8-14 requires new development and redevelopment projects that create or replace one acre or more of impervious surface area, and are located within a subwatershed that is less than 65 percent impervious, to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt generation, or other impacts to local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that do not meet the minimum size threshold, drain into tidally influenced areas or directly into the Bay, or are infill projects in subwatersheds or catchment areas that are greater than or equal to 65 percent impervious would not be subject to the HMP requirement.

Dam Safety

Since August 14, 1929, the State of California has regulated dams to prevent failure, safeguard life, and protect property. The California Water Code entrusts dam safety regulatory power to California Department of Water Resources, Division of Safety of Dams (DSOD). The DSOD provide oversight to the design, construction, and maintenance of over 1,200 jurisdictional sized dams in California.[46]

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.

[45] Valley Water. *2016 Groundwater Management Plan, Santa Clara and Llagas Subbasins*. November 2016.
[46] California Department of Water Resources, Division of Safety of Dams. Accessed April 5, 2021. https://water.ca.gov/Programs/All-Programs/Division-of-Safety-of-Dams#:~:text=Since%20August%2014%2C%201929%2C%20the,Safety%20of%20Dams%20(DSOD).

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	
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy ER-8.5	Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.
Policy EC-4.1	Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.
Policy EC-5.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

3.10.1.2 *Existing Conditions*

Surface Water Quality

The project site is located within the Coyote Creek watershed which covers a 322 square-mile area from Morgan Hill to Milpitas. It is the largest watershed in Santa Clara County, and Coyote Creek is the longest creek in the County, discharging to San Francisco Bay. It contains sixteen major creeks and three reservoirs – Coyote and Anderson, and Lake Cunningham.[47] The nearest tributary to the project site is Thompson Creek, located approximately 1.5 miles southwest of the site. Lake Cunningham is located approximately 1.2 miles northwest of the site.

Water quality of the river can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Runoff often contains contaminants such as oil and grease, plant and animal debris (e.g. leaves, dust, and animal feces), pesticides, trash, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitats to which they drain. Coyote Creek is included on the SWRCB's

[47] Valley Water. *Watersheds of Santa Clara Valley.* Accessed April 16, 2021. https://www.valleywater.org/learning-center/watersheds-of-santa-clara-valley.

Impaired Waterways 303(d) list, with pesticides (diazinon) being the primary pollutant requiring the development of a TMDL.[48]

In its current state, runoff from the project site likely contains pollutants typically found in urban developed environments, including sediment and trash.

Groundwater

The project site is located in the Santa Clara Valley Groundwater Basin between the Diablo Mountains to the east and the Santa Cruz Mountains to the west. The Santa Clara Valley Groundwater Basin is filled by valley floor alluvium and the Santa Clara Formation. Published data indicates that historic high groundwater levels in the vicinity of the project site are greater than 20 feet below the ground surface. Regionally, a westerly groundwater flow direction would be anticipated.[49]

Storm Drainage

As it currently exists, the project site is mostly pervious, as all of the former structures and most impervious surface areas have been removed. An approximately 225-foot long portion of a former driveway constructed of compacted gravel remains on the site, however, and is considered impervious. It covers an area of approximately 2,800 square feet, resulting in an estimated impervious area for the site of approximately three percent. Stormwater runoff from the site drains to existing City storm drain facilities in Norwood Avenue. Norwood Avenue adjacent to the site contains a 12-inch diameter City storm drain line, as well as a 66-inch diameter culvert that connects to Norwood Creek. This line discharges to an open channel at South White Road, approximately 0.9 miles southwest of the site. There is also a 42-inch City storm drain line located in Ruby Avenue adjacent to the site. Runoff from the site flows southwesterly through the storm lines in Norwood Avenue and the Norwood Creek channel, which conveys flows to Thompson Creek, a tributary of Coyote Creek, approximately 1.5 miles southwest of the site. Ultimately, the runoff is discharged to San Francisco Bay via Coyote Creek.

Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map No. 06085C0258H, dated May 18, 2009), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard. There are no floodplain requirements for Zone D.

Dam Failure

Based on the SCVWD dam failure inundation hazard maps, the project site is outside of the Anderson Dam failure flood inundation hazard zone.

[48] SWRCB. TMDL – *The Integrated Report.* Accessed April 16, 2021. https://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/#intrpt2014_2016.
[49] Cornerstone Earth Group. *Phase I Environmental Site Assessment - 2740 Ruby Avenue, San Jose, California*. October 16, 2020.

3.10.2 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;
    - 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?

3.10.2.1 *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 Impacts

Implementation of the proposed project would result in disturbance of approximately 1.86-acres. Since the project would disturb more than one acre of soil, it would be required to comply with the statewide Construction General Permit. The Permit requires preparation and implementation of a SWPPP that includes sediment control measures and other stormwater pollution prevention practices specific to the project. The following Standard Permit Conditions will be included in the project to prevent stormwater pollution and minimize potential sedimentation during project construction.

Standard Permit Conditions:

Construction-related water quality measures:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

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

In addition, the proposed project will be required to adhere to the requirements of the NPDES Construction General Permit due to its disturbance of over one acre of soil, as outlined in the following conditions:

- Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB Best Management Practices.
- The certified SWPPP will be posted at the construction sites and will be updated to reflect current site conditions.
- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the SWRCB. The Not will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan in place as described in the SWPPP for the site.

With implementation of the above standard permit conditions, the project would not result in significant construction-related water quality impacts. **(Less than Significant Impact)**

Post-Construction Impacts

The proposed project would create and/or replace more than 10,000 square feet of impervious surfaces and is therefore subject to San José Council Policy 6-29 and the MRP. Under Provision C.3 of the MRP, the project would be required to treat runoff from 100 percent of its impervious surface area. A stormwater management plan (SMP) must be prepared for the project as a requirement of the

rezoning and development permit processes. The plan requires approval by the San José Director of PBCE for consistency with Council Policy 6-29 and the MRP.

The preliminary SMP prepared for the project proposes the incorporation of bioretention basins located toward the Ruby Avenue side of the site to treat runoff from building roofs and impervious ground surfaces. The bioretention basins provide treatment of the runoff by filtering pollutants out before the water is discharged to off-site storm drain lines in Norwood Avenue. In addition to the bioretention basins, self-treatment areas are proposed for locations containing open landscaping that is adjacent to impervious ground surfaces. Pollutants are filtered through the landscape plants and underlying soil us the runoff flows over them. Pervious paving materials are also proposed to be used in walkways and other pedestrian-oriented areas of the site to further reduce runoff volumes and rates. A detailed Operation and Maintenance Plan would be included in the final SMP to ensure that the post-construction treatment controls are properly maintained to maximize their functionality and pollutant removal efficiency.

In addition to treatment controls, the SMP describes pollutant source controls that would be included in the project. These include structural controls such as storm drain inlet stenciling, and operational controls such as regular site maintenance and good housekeeping practices (street sweeping, trash control, inspection and maintenance of in-site storm drain inlets and bioretention basins). Additional source controls proposed include the installation of beneficial landscaping that minimizes the need for irrigation, pesticides and fertilizers, and the use of water-efficient irrigation systems.

With the required implementation of the post-construction stormwater management plan described above, which is consistent with Council Policy 6-29 and the MRP, the proposed project would result in less than significant post-construction water quality impacts. **(Less than Significant Impact)**

Groundwater

The proposed project does not include excavation below the level of groundwater on-site and would not require dewatering or pumping of groundwater during construction. Therefore, the proposed project would not result in impacts to groundwater on-site. **(No Impact)**

Hydromodification Management

The proposed project would create and/or replace one acre or more of impervious surfaces and is located in a subwatershed or catchment area that is less than 65 percent impervious. Therefore, the project is subject to San José Council Policy 8-14 for hydromodification management. Council Policy 8-14 states for development that is subject to the policy:

> *Stormwater discharges from HM Projects shall not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) condition. Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of stream beds and banks, silt pollution generation, or other adverse impacts. All HM Projects are required to install Post-Construction HMCs.*

The preliminary SCP prepared for the project indicates that the bioretention basins used for post-construction runoff treatment would be designed to also function as flow and volume controls,

reducing post-project runoff to estimated pre-project rates and durations. Thus, the project would conform to Policy 8-14, and hydromodification management impacts would be less than significant. **(Less than Significant Impact)**

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

The proposed project is located within the Santa Clara Subbasin, one of two groundwater basins located within the City of San José Urban Growth Boundaries. Planned buildout within the scope of the 2040 General Plan does not include areas within any of the Santa Clara Valley Water District's 18 major groundwater recharge systems. The Santa Clara Subbasin has not been identified as a groundwater basin in a state of overdraft. The project site is not located within a groundwater recharge area.

Groundwater has been estimated to occur at depths of greater than 20 feet bgs, although the depth can vary seasonally. Since construction of the project would not require substantial below-ground excavation, dewatering would not be required. Construction activities proposed by the project would therefore not substantially decrease groundwater supplies or interfere with groundwater recharge. The proposed project would increase water demand on-site but would rely on existing water delivery systems to meet its demand. The project would not establish or require additional groundwater pumping, actions which could impede efforts to sustainably manage the Santa Clara Subbasin. **(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?

The proposed project would create approximately 57 percent impervious and 43 percent pervious surfaces, representing an approximately 54 percent increase in impervious surfaces over the current condition (vacant land with an impervious driveway). This increase in impervious surface area will result in a net increase in post-construction stormwater runoff, however, the network of City storm drain lines in the vicinity of the site has been sized to accommodate the 10-year design storm, and has adequate capacity to serve the neighborhood.[50] On-site storm drain collection systems will be designed in accordance with City of San José standards. Adherence to the standard permit conditions described above for management of stormwater runoff during construction would function to reduce erosion and siltation on-site. Additionally, the proposed project LID based storm drain system would allow water to be retained and released slowly, preventing the project from exceeding existing runoff volumes.

[50] City of San Jose. Envision 2040 General Plan FEIR. 2011.

By maintaining runoff rates and draining water into the existing stormwater control systems under the 10-year design storm, the proposed project would not create new sources of runoff or overwhelm existing stormwater systems. Additionally, the proposed project would not impede flood flows because Flood Zone D would not expose the site improvements or occupants to frequent flooding or inundation. Therefore, the proposed project would not alter the drainage system in the area in a manner which would result in flooding, erosion/siltation, excess polluted runoff, or an exceedance of storm drain capacity.

In conformance with the required NPDES Construction General Permit, the project would develop a SWPPP and install construction BMPs to reduce pollutant loads in stormwater runoff during construction. In addition, the project's on-site storm drain system includes LID-based treatment controls (bioretention areas and planter boxes) that will reduce pollutants in post-construction stormwater runoff in compliance with MRP and Policy 6-29 standards. As a result, the project would not provide substantial sources of polluted runoff. **(Less Than Significant Impact)**

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

The project is located in a Flood Zone D according to FEMA Flood Insurance Rate Maps. A Flood Zone D indicates undetermined flood hazard for the site and is reserved for areas where no flood hazard analysis has been conducted. The project site is located outside of the 100-year floodplain of Thompson Creek, the closest waterway to the site, located approximately one mile southwest of the site. Based on the Valley Water dam failure inundation hazard maps, the project site is outside of the Anderson Dam failure flood inundation hazard zone.[51] In addition, the project site is located inland of the San Francisco Bay and would not be subject to inundation following a tsunami or seiche. Therefore, the project would not risk release of pollutants due to inundation from flooding, tsunamis, or seiches. **(Less than Significant Impact)**

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

Valley Water prepared a Groundwater Management Plan (GMP) for the Santa Clara and Llagas subbasins in 2016, describing its comprehensive groundwater management framework including objectives and strategies, programs and activities to support those objectives, and outcome measures to gauge performance. The GMP is the guiding document for how Valley Water will ensure groundwater basins within its jurisdiction are managed sustainably. The Santa Clara subbasin has not been identified as a groundwater basin in a state of overdraft.

The project site is not located within, or adjacent to, a Valley Water groundwater recharge pond or facility.[52] Implementation of the proposed project would not interfere with any actions set forth by Valley Water in its GMP regarding groundwater recharge, transport of groundwater, and/or groundwater quality. Therefore, the proposed project would not preclude the implementation of the GMP. **(Less than Significant Impact)**

[51] Department of Water Resources. Dam Breach Inundation Map Web Publisher. https://fmds.water.ca.gov/webgis/?appid=dam_prototype_v2. Accessed February 24, 2022.
[52] SCVWD. *2016 Groundwater Management Plan.* Figure 1-3. November 2016.

3.10.2.2 *Cumulative Impacts*

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

The proposed project would reduce potential water quality impacts from construction to a less than significant level by adhering to the requirements of the NPDES Construction General Permit and the MRP, as detailed in Standard Permit Conditions under checklist question (a). Cumulative projects in the area would, depending on their size and scale, be required to implement similar conditions as the proposed project to reduce construction related water quality impacts. The City of San Jose has policies and municipal code requirements which ensure compliance with regional and statewide water quality regulations. Projects in the area would be required to adhere to these policies, including General Plan Policies ER-8.1, ER-8.3, EC-5.16, and Action EC-7.10.

Additionally, upon completion of the proposed improvements including the on-site stormwater management features, the proposed project would not contribute to adverse stormwater conditions and would not exacerbate offsite flooding because on-site stormwater would be managed by proposed on-site improvements.

Therefore, the proposed project would not contribute to a significant cumulative hydrology and water quality impact. **(Less than Significant Cumulative Impact)**

3.11 LAND USE AND PLANNING

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

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 land use and are applicable to the project.

General Plan Policies - Land Use	
Goal VN-1	Develop new and preserve and enhance existing neighborhoods to be vibrant, attractive, and complete.
Goal VN-5	Provide for the development of Private Community Gathering Facilities at locations within or near residential, commercial, or mixed residential-commercial neighborhoods throughout the City to accommodate the social and cultural activities of the San José community
Goal LU-1	Establish a land use pattern that fosters a more fiscally and environmentally sustainable, safe, and livable city.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.15	Consider the relationship between street design, use of the public right-of-way, and the form and uses of adjoining development. Address this relationship in the Urban Village Planning process, development of new zoning ordinances, and the review of new development proposals in order to promote a well-designed, active, and complete visual street environment.
Policy CD-2.3	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. 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 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. 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.

General Plan Policies - Land Use	
	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.
Policy CD-4.9	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).
Policy CD-5.8	Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.
Policy TR-14.2	Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.
Policy IP-1.6	Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance 2040 General Plan Vision, goals and policies and benefit community welfare.
Policy IP-1.7	Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics which require special consideration due to those constraints.
Policy IP-1.8	Consider and address potential land use compatibility issues, the form of surrounding development, and the availability and timing of infrastructure to support the proposed land use when reviewing rezoning or prezoning proposals.

Evergreen East Hills Development Policy

The Evergreen-East Hills Development Policy (EEHDP) was adopted by the San José City Council in 2008, and its primary purpose is to replace the original Evergreen Development Policy, as amended, to specifically allow a limited increase in development within the EEHDP boundary. The EEHDP area is located in the City's Urban Service Area, and is generally bounded by Story Road on the north, US 101 on the west, Hellyer Avenue on the south, and the Urban Service Area boundary on the east. The EEHDP is intended to promote the long-term vitality of the Evergreen-East Hills area by linking together limited development with supporting transportation infrastructure. In exchange for enabling more development capacity, the policy provides a mechanism to require commensurate traffic impact fees in order to construct transportation system investments.

3.11.1.2 *Existing Conditions*

On-Site Land Use and Zoning Designations

The project site is within the Residential Neighborhood General Plan land use designation. This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential

neighborhood areas. The intent of this designation is to preserve the existing character of these neighborhoods and to limit new development to infill projects which conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood.

Private Community Gathering Facilities (including religious assembly uses) compatible with the surrounding residential neighborhood are supported under this General Plan land use designation. This designation also supports the development of new commercial uses within established residential neighborhoods if located on busier streets or at street intersections, and provided such development does not negatively impact the surrounding neighborhood. Hospitals and other healthcare facilities may potentially be located within such areas provided that any potential land use impacts can be mitigated. New commercial uses are discouraged on small existing streets unless it can be clearly demonstrated that the commercial use can integrate with the existing residential neighborhood without creating adverse impacts. Commercial uses in these locations will typically be limited to home occupations or similar home-based commercial activities unlikely to create a nuisance within the established Residential Neighborhood setting.

The project site is currently zoned R-1-5, Single-Family Residential. The primary purpose of the single-family residential district is to reserve land for the construction, use and occupancy of single-family subdivisions. This land use permits the uses of single-family residences, school sites, and conditionally allows many public or quasi-public assembly uses including religious gathering spaces. As noted in the Project Description, the project proposes to rezone the site to the PQP Public/Quasi-Public zoning district.

Land Uses adjacent to the Project Site

The project site is adjacent to R-1-5 zoning to the east, R-1-5 (PD) Planned Development (R-1-1 Low to Medium Density Residential Base District) to the north and west, and R-1-5 (PD)/R-1-8 Single-Family Residential to the south. These uses are primarily for low density residential uses featuring one to eight units per acre.

All areas around the site have Residential Neighborhood General Plan land use designations.

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?

The proposed project would construct a religious assembly use on an existing vacant lot. The proposed project would not create physical barrier which would divide a community, nor would it alter access to surrounding areas by removing or creating new roads around the project site. Therefore, the proposed project would not result in impacts from physically dividing an established community. **(No Impact)**

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

The project is consistent with the Envision San José 2040 General Plan. Private community gathering facilities (including religious assembly uses) compatible with the surrounding residential neighborhood are supported under the applicable General Plan designation. The General Plan's Quality of Life Chapter states that within San José's neighborhoods, public institutions and private community gathering facilities (particularly religious assembly uses) are pillars of the community. The first Vibrant Neighborhoods Goal in that Chapter is to "Develop new and preserve and enhance existing neighborhoods to be vibrant, attractive, and complete." (Goal VN-1.) City staff has also recognized that the project may be consistent with Goal VN-5, which is to provide for the development of Private Community Gathering Facilities at locations within or near residential neighborhoods throughout the City of San José to accommodate the social and cultural activities of the San Jose community.

The proposed project is a redevelopment of the vacant project site with a private community gathering facility and as stated in the Biology and Cultural Resources sections of this document, would not create significant impacts on resources protected by plans, policies, or regulations of the City of San José. All physical impacts to the project site would result in less than significant impacts with the mitigation measures included in the respective sections of this document and the proposed project would be required to conform to design and policies based on the new proposed PQP Public/Quasi-Public zoning district.

As described within the individual sections of this document, incorporation of the required Standard Permit Conditions, required mitigation measures, 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. The proposed project would be reviewed for compliance with applicable land use plans and policies. As a result, the impact is 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 proposed project would not result in significant conflicts in land use and would not result in conflicts with policies or regulations. Additionally, the proposed project is not located near any other known projects which would cumulatively result in significant changes in land use for areas around the project site. Therefore, the proposed project would not result in a cumulatively considerable contribution to a significant cumulative 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 the City of San José as containing mineral deposits of statewide significance or requiring further evaluation.

3.12.1.2 *Existing Conditions*

According to the General Plan, the only location in the City of San José with mineral deposits of regional significance is the area of Communications Hill. Communications Hill is located 4.6 miles to the southwest of the project site. The subject site does not contain mineral resources and has never been used for mining purposes.

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?

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 project site does not contain mineral resources. The proposed project would not result in an impact on known mineral resources of regional or state value. **(No Impact)**

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

The project site does not contain mineral resources. The proposed project would not result in an impact on known mineral resources of local value. **(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 proposed project would have no impact on mineral resources; therefore, the proposed project would not contribute to cumulative mineral resources impacts. **(No Impact)**

3.13 NOISE

The following discussions and analyses are based, in part, on an Acoustical Assessment prepared for the project by *Wilson Ihrig Inc.* in March 2021. A copy of the report is attached aa Appendix G to this EIR.

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.[53] 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.

[53] 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 and Local

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}/CNEL 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.

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 Table 3.13-1 below.

Table 3.13-1: General Plan Land Use Compatibility Guidelines (GP Table EC-1)

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

In addition, various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to noise, as listed in the table below.

General Plan Policies - Noise and Vibration	
Policy EC-1.1	Exterior Noise Levels • 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: – 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.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or • Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	New nonresidential land uses will mitigate noise generation to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

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

San José Municipal Code 20.40.600.B

Noise: The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-105 at any property line, except upon issuance and in compliance with a special use permit as provided in Chapter 20.100. These regulations are not thresholds for CEQA and, if exceeded, would trigger a requirement for a special use permit.

Maximum Noise Level in Decibels at Property Line	
Commercial or PQP use adjacent to a property used or zoned for residential purposes	55 dBA
Commercial or PQP use adjacent to a property used or zoned for commercial or other non-residential purposes	60 dBA

Vibration: There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

3.13.1.3 *Existing Conditions*

The noise survey, performed by Wilson Ihrig, was conducted at the rear area of the site over a period of four days (Saturday August 17, 2021 – Tuesday August 20, 2021). The survey consisted of the deployment of a calibrated, precision logging sound meter near the rear of the site. The meter provided hour-by-hour data on the noise environment, which was then averaged in order to determine the levels reached by the DNL, which is the metric used by the Noise Element of the General Plan of the city of San Jose. The measured levels were typical of medium density urban environments and show the day-to-day consistency of sound levels in the vicinity. The survey revealed that the noise environment near the adjacent residential areas is 49 DNL.

An increase in the DNL of five dBA or more would represent a significant noise impact on this area; therefore, the limit for the area around the project site is 53 DNL as that would correspond to a DNL increase of less than five dBA. The predominant noise source in the area is traffic on surrounding streets. Sensitive receptors adjacent to the project site are the single-family home surrounded by the project site and those single-family homes that share a property line with the site to the north and east.

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?

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?

Construction Noise

Construction activities generate considerable amounts of noise, especially during earth-moving activities when heavy equipment is used. Phases of the project would include site preparation, grading/excavation, trenching/foundations, construction of the building shell, interior finishing/architectural coatings, and paving. The hauling of exported soil and imported materials would generate truck trips on local roadways as well. The noise generated by standard construction equipment with no attenuation at 50 feet would be approximately commensurate to the values in Table 3.13-2 below. These levels would decrease with distance and obstruction from the source.

Table 3.13-2 Average Noise Levels of standard construction Equipment

Equipment	Average Noise level in dBA
Auger Drill	88
Compactor (roller)	82
Concrete Mixer	81
Crane	74
Excavator	76
Front End Loader	72
Grader	79
Generator	67
Paving	85

Source: Project 25-49 Data, National Cooperative Highway Research Program, https://apps.trb.org/cmsfeed/trbnetprojectdisplay.asp?projectid=3889, October 2018

The nearest noise-sensitive residential land use (a single-family residence) would be located approximately 100 feet north of the center of the construction site. The total construction period for the project is expected to last approximately 28 months. Per General Plan Policy EC-1.7, temporary

noise increases due to project construction would be considered significant as the construction activity would involve substantial noise-generating activities (such as building demolition, grading, excavation, use of impact equipment, or building framing) continuing for more than 12 months. Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction material, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life. Policy EC-1.7 requires that projects follow best management practices that would further reduce the level of noise produced during project construction. These best management practices, described in the Standard Permit Condition and mitigation measure below, would be required to be implemented by the project.

Impact NOI-1: Construction noise levels would potentially exceed the General Plan thresholds of 60 dBA at adjacent residential buildings within 25 feet of the project site for more than 12 months. **(Significant Impact)**

Mitigation Measures:

MM-NOI 1.1 **Construction-related Noise:** Prior to issuance of any grading, building, or demolition permits, the project applicant shall prepare and implement a noise logistics plan that includes measures to minimize construction noise impacts on adjacent residential land uses. Noise minimization measures include, but are not limited to, the following:

- Pursuant to General Plan Policy EC-1.7, project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following:
    - Pile driving is prohibited.
    - Limit construction to the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
    - Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
    - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
    - Prohibit unnecessary idling of internal combustion engines over 15 minutes.
    - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors such as occupied residential

buildings. Construct temporary noise barriers to scree stationary noise-generating equipment when located near adjoining sensitive land uses including but not limited to occupied residential buildings.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to current the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Prior to issuance of any grading, building or demolition permits, the project applicant shall submit a copy of the noise logistic plan to the Director of Planning, Building and Code Enforcement. Documentation showing compliance with noise logistic plan shall be provided to the Director of Planning, Building and Code Enforcement within 60 days after completion of the project.

Through required compliance with the mitigation measure above, the proposed project would limit construction to the acceptable construction hours and would incorporate noise reduction measures to limit the noise of construction equipment and workers. Therefore, the proposed project would result in less than significant noise impacts from construction of the structures on the site with mitigation incorporated.

Operational Noise

Traffic

Vehicle traffic generated by the project would be the most substantial source of noise from the project's operation. 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 five dBA DNL or greater, with a future noise level of less than

60 dBA DNL, or b) the noise level increase is three dBA DNL or greater, with a future noise level of 60 dBA DNL or greater. The existing noise environment in the surrounding area is approximately 49 DNL, therefore, a significant impact would occur if project-generated traffic would permanently increase noise levels by five dBA DNL. For reference, a three dBA DNL noise increase would be expected if the project would double existing traffic volumes along a roadway.

An estimate of vehicle trips anticipated to be generated by the project was provided by *Hexagon Transportation Consultants, Inc.* (see Section 3.17 Transportation). Using this trip generation data, it is estimated that the project would generate up to 97 daily vehicle trips which would not double existing roadway traffic, which has greater than 1,000 average daily trips per day. The operations of the project would result in a noise increase of zero to one dBA DNL along roadways serving the project site.[54] Therefore, the project would result in a noise increase of less than three dBA DNL and thus would not cause a significant impact due to increase traffic noise.

Special Event Noise

The Temple would have a number of special events when attendance of visitors would spike to as many as 300 people. To account for this, groupings of visitors were modeled throughout the site to estimate crowd noise. The model assumed a total of 300 people scattered around the site, either chanting softly in the courtyard areas or having louder conversations happening in the parking lot to account for arrivals and departures. Actual crowd noise will vary as provided in the operations discussion in Section 2.2.8 of this report; most events will have significantly less attendance than 300 people at one time.

Amplified sound, which may occur in exterior spaces during religious holidays or special religious events, will adhere to city standards and regulations. An electronic volume-limiting system would be incorporated into the fixed speakers so that sound levels can be adjusted as needed as seen in the following condition of approval.

Condition of Approval

The sound system located on site would be constructed to direct noise toward the center of the site and limited to 71 dBA maximum volume levels. The output of the sound system will be limited at the source of noise so that a reasonable maximum volume is achieved while not disturbing neighbors, which would result in a less than 53 dBA DNL, based on the level of five dBA more than existing conditions, over the course of three hours of operation.[55]

With the maximum number of 300 visitors at a single time, with an assumed event using speakers installed in compliance with the above condition of approval, the noise levels for special events would range from 41 to 49 dBA DNL, which would not result in exceedance of the 53 dBA DNL sound limit at surrounding sensitive receptors including single-family homes in the neighborhood.

[54]City of San José. Envision 2040 General Plan FEIR. 2011.

[55] Correspondence with Pablo Daroux from Wilson Irhig Noise Consultant. Email. March 25, 2022
Assume a speaker is six feet from a listener and 24 feet from property line; in this scenario there is 12dB drop off (two doublings at -6dB per doubling of distance). With an additional -6dB for being out of angle of coverage, that equates to a 18dB drop off. 18dB + 53dBA = 71dBA speaker level at listener to achieve 53dBA at property line, which should be intelligible. In other words, by setting the maximum output of the speakers to 71dBA (measured at listener position), anything measured beyond property line should not exceed the 53dBA limit."

Mechanical Equipment

Various standard mechanical equipment for heating, ventilation, and cooling purposes, exhaust fans, and other similar equipment would be located within the basement of the temple and community buildings, where the building would attenuate noise from equipment located indoors. The exterior mechanical equipment, including the condensing units for cooling, would be located on the east side of the community structure on the southeast corner of the project site. The project impacts were modeled in the Acoustical Assessment *(Appendix G).*

It was assumed that under the standard operations the kitchen fans would run for one hour in the morning and one hour in the late afternoon with no operation during nighttime hours (10PM-7AM). Additionally, HVAC units on site would run for about six hours in total during the day for cooling and heating needs. Based on full use modeling for standard daily operations the proposed project was found to create sound levels of approximately 49 dBA DNL at the project property line. In the event HVAC is used for periods longer than six hours, sounds levels could increase by approximately three dBA DNL if operations are doubled. This would only result in an increase of sound levels to approximately 52 dBA DNL.

For special events it was assumed that there would be increased operations of kitchen fans and extended hours of operations of HVAC units. Therefore, it was assumed kitchen fans would run for three hours in the morning and four hours in the late afternoon, with no operation during nighttime hours (10PM-7AM), and the HVAC would operate for about 10 hours per day. This would result in sound levels of approximately 49 dBA DNL at the property line.

As discussed in Section 3.13.1.3, the existing noise levels of the surrounding area were determined to be approximately 49 dBA DNL, and the operations of the proposed project should not create noise levels that would increase the DNL by 5 dBA or more; therefore, the maximum permissible noise levels are calculated to be 53 DNL. As discussed above, modeling using the CadnaA software shows that predicted sound levels would be below 53 DNL for typical daily use and for special events. Therefore, the project would not 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. **(Less than Significant Impact with Mitigation Incorporated)**

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

The groundborne vibration created by the construction equipment at the project site would have the potential to cause damage to surrounding structures. Based on the distance from the source of vibration the vibratory levels vary in severity. The vibratory impacts from construction of the proposed project would be at the levels indicated in Table 3.13-3 below.

Table 3.13-3: Impacts to Nearby Buildings Surrounding the Project Site				
Equipment		**PPV at 25 feet**	**Vibration Levels Nearby**	
			PPV at 5 feet (Closest Residence)	**PPV 45 feet (Residence to the northeast)**
Clam shovel drop		0.202	**1.2**	0.11
Hydromill	Soil	0.008	0.02	0.002
	Rock	0.017	0.05	0.004
Vibratory Roller		0.210	**1.2**	0.11
Hoe Ram		0.089	**0.52**	0.05
Large bulldozer		0.089	**0.52**	0.05
Caisson drilling		0.089	**0.52**	0.05
Loaded trucks		0.076	**0.45**	0.04
Jackhammer		0.035	**0.21**	0.02
Small bulldozer		0.003	0.02	0.002

At a distance of 25 feet, vibratory rollers and clam shovel drops would have the potential to produce vibration levels of 0.20 in/sec PPV or more at buildings of conventional construction located within 25 feet of the project site (i.e., adjacent buildings to the north and south). The nearest building located south of the site is within 5 feet of construction and would be exposed to vibration levels from different construction equipment ranging from 0.02 to 1.2 in/sec PPV which exceeds the 0.20 in/sec PPV threshold for conventional buildings. Additionally, the nearest building located 45 feet from the center for construction to the north would be exposed to vibration levels ranging from 0.004 to 0.11 in/sec PPV. Construction-generated vibration levels would fall below the 0.2 in/sec PPV threshold at other surrounding conventional buildings located 45 feet or more from the project site. Neither cosmetic, minor, or major damage would occur at conventional buildings located 30 feet or more from the project site.

However, as shown in table 3.13-3, construction of the project would generate vibration levels exceeding the General Plan threshold of 0.2 in/sec PPV or more at buildings of conventional construction located within 5 feet of the project site. By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby residences and businesses, perceptible vibration can be kept to a minimum. Consistent with the General Plan and in addition to required standard construction noise reduction measures, the following measures shall be implemented to reduce vibration impacts from construction activities.

Impact NOI-2: Construction vibration levels would exceed the General Plan threshold of 0.2 in/sec PPV for adjacent residential buildings within 25 feet of the project site. **(Significant Impact)**

Mitigation Measures

MM NOI-2.1: Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a Construction Vibration Monitoring, Treatment, and Reporting Plan to document conditions prior to, during, and after vibration generating construction activities. The plan 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 vibration monitoring, treatment, and reporting plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval.

As part of the construction vibration monitoring, treatment, and reporting plan, construction activities for the proposed project shall include, but are not limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. The contractor shall phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- Prohibit pile driving.
- Where possible, use of the heavy vibration-generating construction equipment shall be prohibited within 20 feet of any adjacent building.
- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.
- If vibration levels approach limits, suspend construction and implement contingency measures to either lower vibration levels or secure the 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-construction survey on structures where either monitoring has indicated high vibration levels or complaints of

damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities. The survey shall be submitted to the Director of the Department of Planning, Building, and Code Enforcement.

With required implementation of the mitigation measure identified above, groundborne vibration impacts associated with project-construction would be less than significant. Additionally, the proposed project would not include equipment or activities that would generate substantial vibrations during operations and would not cause vibration impacts during operations. **(Less than Significant Impact with Mitigation Incorporated)**

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

The Reid-Hillview Airport is located approximately 1.66 miles northwest of the project site. The site lies outside the 60 dBA CNEL 2022 noise contour which means that future exterior noise levels due to aircraft from Reid-Hillview Airport would not exceed 60 dBA CNEL/DNL. The required safe and compatible threshold for exterior noise levels would be at or below 65 dBA CNEL/DNL for aircrafts (Policy EC-1.11); therefore, the proposed project would be compatible with the City's exterior noise standards for aircraft noise. **(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?

As stated in the section above, the proposed project would implement mitigation measures to reduce noise and vibration originating from the project site during construction to a less than significant level. Due to the lack of other known nearby projects, the cumulative impacts of the project would be in relation to the construction noise compounded with the existing street noise in the surrounding area. Through the incorporation of noise reduction measures and compliance with standard permit conditions for construction, the proposed project would not result in cumulative impacts from construction noise. There are no cumulative construction projects nearby that would generate vibration that could combine with the project construction activity.

Additionally, as stated above the proposed project would result in less than significant operational noise or vibrational impacts from on-site equipment and vehicle trips. There are no other known projects near the proposed project which would contribute further to operational noise or vibration impacts therefore, the proposed project would not result in a cumulative operational noise impact. **(Less than Significant Cumulative Impact)**

3.13.3 Non CEQA

The proposed project would include residences on-site for monks living within the temple. The noise environment of the surrounding neighborhood, including the new uses introduced by the proposed

project, would affect these on-site residences. As stated above, the proposed project would not create an operational noise impact for the surrounding areas and would similarly, not result in impacts to the residents on-site at the temple. Additionally, these resident quarters would be required to comply with the applicable Title 24 interior noise requirements and City regulations controlling indoor noise levels. Therefore, the proposed project would not have adverse impact on the new on-site residents resulting from increased noise levels.

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.[56] The City of San José Housing Element and related land use policies were last updated in April 2015.

Regional and Local

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).[57]

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 the City of San José was estimated to be approximately 1,049,187 in January 2020 with an average of 3.19 persons per household.[58] The projections produced by ABAG predict the

[56] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed April 5, 2021. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[57] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." Accessed April 5, 2021. http://projectmapper.planbayarea.org/.
[58] State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2020. Sacramento, California, May 2019.

City population to increase to 1,357,845 by 2040.[59] The City currently has approximately 335,887 housing units.[60]

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of dwelling units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing. According to the General Plan FEIR, the current ratio of jobs to employed residents in the City of San José is estimated to be 0.8 to 1, making the city "housing rich".

3.14.2 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?

3.14.2.1 *Project Impacts*

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

The proposed project is a religious assembly use to serve the existing Khmer Krom community. The proposed project would not require extension of infrastructure or roadways. The project would include shared dwelling units with multiple sleeping rooms for eight monks which would not be a substantial population growth to the area. Therefore, the proposed project would not induce unplanned population growth in the area, either directly or indirectly. Therefore, the proposed project would have no impact on population growth surrounding the project site. **(No Impact)**

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

The project site is currently vacant and provides no housing under existing conditions. The proposed project would provide a small amount of shared dwelling units with multiple sleeping rooms for monks on the premises and would not displace any existing population from the project site. Therefore, the proposed project would have no impact on existing housing stock. **(No Impact)**

[59] ABAG, Projections 2040: Forecasts for Population, Household, and Employment for the Nine County San Francisco Bay Area Region. 2017.
[60] Ibid.

3.14.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative population and housing impact?

The proposed project would have no impact on population and therefore the proposed project would not result in a cumulative population and housing impact. **(No Cumulative Impact)**

3.15 PUBLIC SERVICES

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.

Regional and Local

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.

Law Enforcement and Fire Protection	
ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 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-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly-visible and accessible spaces.
ES-3.10	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.
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.
ES-3.14	Encourage property maintenance and pursue appropriate code enforcement to reduce blight, crime, fire hazards or other unsafe conditions associated with under-maintained and under-utilized properties.

Countywide Trails Master Plan

The Santa Clara County Trails Master Plan Update is a regional trails plan approved by the Santa Clara County Board of Supervisors. It provides a framework for implementing the County's vision of providing a contiguous trail network that connects cities to one another, cities to the county's regional open space resources, County parks to other County parks, and the northern and southern urbanized regions of the County. The plan identifies regional trail routes, sub-regional trail routes, connector trail routes, and historic trails.

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 31, located at 3100 Ruby Ave, which is approximately 1.2 miles south 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 seven miles northwest 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 (non-emergency) calls.

Schools

The project site is located within the East Side UHSD and Evergreen ESD. The project site would be served by the Norwood Creek Elementary School (3241 Remington Way), Quimby Oak Middle School (3190 Quimby Road), and the Evergreen Valley High School (3300 Quimby Road).

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.[61] The nearest public park is the Groesbeck Hill Park, located approximately 0.4 miles northeast of the project site.

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 Village Square Branch Library, approximately 1.3 miles south 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?

[61] City of San José. *Fast Facts*. October 8, 2019.

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 project site is currently served by the SJFD. The proposed project would not create a use on the project site that would require additional fire department services facilities and would comply with the recommendations and requirements of the SJFD regarding the construction of structures. Therefore, the proposed project would not require new or physically altered government facilities, and would not affect the acceptable service ratios, response times, or other performance objectives for fire protection services. **(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 project site is currently served by the SJPD. The proposed project would not create a use on the project site that would require additional police department service facilities and would comply with the recommendations and requirements of the SJPD regarding the construction of structures. Additionally, the proposed project would include lighting and other security features to deter criminal activity from occurring at the project site. Therefore, the proposed project would have a less than significant effect on acceptable service ratios, response times, or other performance objectives for police protection services and would not require new or physically altered facilities for police services. **(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?

The proposed project would construct a religious assembly use which would not generate any new school age population and would not add new school aged children to the school districts serving the project site. Therefore, the proposed project would have no impact on the service ratios, response times, or other performance objectives for schools. **(No Impact)**

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 proposed project would construct a religious assembly use on the vacant project site and would only include residences for eight monks. The religious assembly use would not contribute to an increase in population that would necessitate the construction of new or expanded park facilities. Therefore, the proposed project would have no impact on service ratios, response times, or other performance objectives for parks. **(No 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 proposed project would only include residences for eight monks. For the reasons discussed above, the religious assembly use would not contribute to an increase in population that would necessitate the construction of new or expanded governmental facilities. Therefore, the proposed project would not contribute to an increase in population which would affect the service ratios, response times, or other performance objectives for any governmental facilities. Therefore, the proposed project would have no impact on these facilities. **(No Impact)**

3.15.2.2 *Cumulative Impacts*

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

The proposed project would not contribute to substantially increased demand upon the public services and would comply with general plan policies and goals regarding the provision of adequate service ratios, response times, or other performance objectives of public services in the City. The proposed project would also conform with the assumptions in the General Plan. **(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.

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.[62] The nearest public park is the Groesbeck Hill Park, located approximately 0.4 miles northeast of the project site.

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?

The proposed project would include shared dwelling units with multiple sleeping rooms for eight monks, however the limited new site population would not lead to the physical deterioration of the park facilities near the project site. Therefore, the proposed project would have no impacts on recreational facilities. **(No Impact)**

[62] City of San José. *Annual Report 2020-2021*. Accessed April 12, 2022. https://www.sanjoseca.gov/home/showpublisheddocument/80634/637800044609900000.

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 proposed project would include shared dwelling units with multiple sleeping rooms for eight monks, however the limited new site population would not require the construction or expansion of recreational facilities near the project site. Therefore, the proposed project would have no impact on recreational facilities. **(No Impact)**

3.16.2.2 *Cumulative Impacts*

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

The proposed project would have no impact on recreational facilities and therefore would not result in cumulative impacts for recreational resources. **(No Cumulative Impact)**

3.17 TRANSPORTATION

The following discussions and analyses are based, in part, on a Local Transportation Analysis (LTA) prepared for the project by *Hexagon Transportation Consultants, Inc. (Hexagon)* in June 2022. A copy of the report is attached as Appendix H to this EIR.

3.17.1 Environmental Setting

3.17.1.1 *Regulatory Framework*

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 vehicle miles traveled (VMT) metric intended to promote the reduction of GHG emissions, the development of multimodal transportation networks, and a diversity of land uses. Specifically, SB 743 requires 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 a major transit stop or a stop along a high-quality transit corridor should be presumed to have a less than significant transportation impact based on OPR guidance. A major transit stop is 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." Pub. Res. Code Section 21064.3.

Regional and Local

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.

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1, Transportation Analysis Policy, 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. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional VMT per employee. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

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 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 transportation improvements. The VMT policy does not negate Area Development policies and Transportation Development policies approved prior to adoption of Policy 5-1; however, it does negate the City's Protected Intersection policy as defined in Policy 5-3.

Envision San José 2040 General Plan

The Envision San José 2040 General Plan contains policies to encourage the use of non-automobile transportation modes to minimize vehicle trip generation and reduce VMT. These policies are listed below.

General Plan Policies - Transportation	
Policy TR-1.1	Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).
Policy TR-1.2	Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.
Policy TR-1.3	Increase substantially the proportion of commute travel using modes other than the single-occupant vehicle in order to meet the City's mode split targets for San Jose residents and workers.
Policy TR-1.4	Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking, and transit facilities and services that encourage reduced vehicle travel demand.

General Plan Policies - Transportation	
Policy TR-1.8	Actively coordinate with regional transportation, land use planning, and transit agencies to develop a transportation network with complementary land uses that encourage travel by bicycling, walking and transit, and ensure that regional greenhouse gas emissions standards are met.
Policy TR-2.1	Coordinate the planning and implementation of citywide bicycle and pedestrian facilities and supporting infrastructure. Give priority to bicycle and pedestrian safety and access improvements at street crossings and near areas with higher pedestrian concentrations (school, transit, shopping, hospital, and mixed-use areas).
Policy TR-2.2	Provide a continuous pedestrian and bicycle system to enhance connectivity throughout the City by completing missing segments. Eliminate or minimize physical obstacles and barriers that impede pedestrian and bicycle movement on City streets. Include consideration of grade-separated crossings at railroad tracks and freeways. Provide safe bicycle and pedestrian connections to all facilities regularly accessed by the public, including the Mineta San Jose International Airport.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-2.10	Coordinate and collaborate with local School Districts to provide enhanced, safer bicycle and pedestrian connections to school facilities throughout San Jose.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-4.1	Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.
Policy TR-8.1	Promote transit-oriented development with reduced parking requirements and promote amenities around appropriate transit hubs and stations to facilitate the use of available transit services.
Policy TR-8.2	Balance business viability and land resources by maintaining an adequate supply of parking to serve demand while avoiding excessive parking supply that encourages auto use.

General Plan Policies - Transportation	
Policy TR-8.3	Support using parking supply limitations and pricing as strategies to encourage the use of non-automobile modes
Policy TR-8.4	Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use
Policy TR-8.6	Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive transportation demand management (TDM) program, or developments located near major transit hubs or within Urban Villages and other growth areas.
Policy CD-3.3	Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.
Policy LU-9.1	Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.

3.17.1.2 *Existing Conditions*

Existing Roadway Network

Regional access to the project site is provided via US 101, which is a north/south freeway that extends from San Francisco through San Mateo and Santa Clara Counties. In San Jose, US 101 is eight lanes wide, including two High Occupancy Vehicle (HOV) lanes - one in each direction. US 101 provides access to and from the project site via Capitol Expressway and Tully Road.

Local access to the project site is provided via Capitol Expressway, Tully Road, Quimby Road, Norwood Avenue and Ruby Avenue, described below.

Capitol Expressway is an eight-lane-wide Grand Boulevard with two HOV lanes (one in each direction) that extends from State Route 87 to I-680. Access to the project site is provided via signalized intersections at Tully Road and Quimby Road.

Tully Road is an east-west four- to six-lane City Connector Street with a raised center median. Tully Road begins at Monterey Road as a transition from Curtner Avenue and extends eastward where it turns into Murillo Avenue at Ruby Avenue. Tully Road has sidewalks, on-street parking on both sides of the street, and bike lanes. Tully Road has a posted speed limit of 35 miles per hour (mph) and provides access to the project site via Ruby Avenue.

Quimby Road is an east-west two- to four-lane City Connector Street that extends from Tully Road in the west to Murillo Avenue in the east. Between Tully Road and White Road, Quimby Road has two lanes in each direction of travel. East of White Road, it varies from two to four lanes. Quimby Road

has buffered bike lanes between Tully Road and Capitol Expressway, and again between Ruby Avenue and Murillo Avenue. Quimby Road has sidewalks on both sides of the street and has a posted speed limit of 40 mph.

Norwood Avenue is an east-west two-lane local road that extends between South White Road and Murillo Avenue, where it transitions into Mount Pleasant Road. Norwood Avenue has sidewalks and on-street parking on both sides of the street except along the project frontage. Bike lanes and shared-lane bike route markings (sharrows) are present on Norwood Avenue. The posted speed limit is 35 mph and provides access to the project site via Ruby Avenue.

Ruby Avenue is a north-south two- to four-lane City Connector Street. Ruby Avenue begins at Kohler Avenue as a transition from Mt. Pleasant Road in the north to Falls Creek Drive in the south. Ruby Avenue has sidewalks, on-street parking on both sides of the street and bike lanes except along the project frontage. The posted speed limit is 35 mph and provides direct access to the project site.

Existing Bicycle and Pedestrian Facilities

Pedestrian facilities consist mostly of sidewalks along the streets in the project area. The neighborhood is mostly residential, and few marked crosswalks exist within the project vicinity. There are two crosswalks at the intersection of Ruby Avenue and Norwood Avenue, adjacent to the project site. Sidewalks are generally present on both sides of Ruby Avenue and Norwood Avenue, but are missing directly along the project frontages. Overall, the existing network of sidewalks in the immediate vicinity of the project site has adequate connectivity and provides pedestrians with safe routes to other points of interest in the area.

In the project vicinity, Class II bike lanes are present on Ruby Avenue, and Norwood Avenue is a designated Class III bike route with Sharrow lane markings. West of Remington Way, Norwood Avenue has Class II bike lanes. Additionally, the surrounding neighborhood streets carry low volumes of bicycle traffic.

Existing Transit Service

Santa Clara Valley Transportation Authority (VTA) currently provides transit service to the project area. One local bus route (Route 39) runs between The Villages and Eastridge Transit Center via Quimby Road in the vicinity of the project site. Route 39 operates between 6:30 AM and 8:00 PM with approximately 30-minute headways during the weekday AM and PM peak commute hours. The bus stop closest to the project site is located at the Ruby Avenue/Quimby Road intersection, approximately ½-mile from the project site.

3.17.1.3 *Study Methodology*

The project requires the preparation of a Local Transportation Analysis (LTA) to identify potential operational issues associated with vehicular and pedestrian access and circulation elements in the immediate vicinity of the project site.

As part of a LTA, a project is typically required to conduct an intersection operations analysis if the project is expected to add 10 or more vehicle trips per hour per lane to any signalized intersection that is located within a half-mile of the project site and is currently operating at LOS D or worse. Based on these criteria (as outlined in the City's Transportation Analysis Handbook) and the low

project trip generation estimates, the LTA prepared for the project by *Hexagon* identified no signalized intersections in the vicinity of the project site that required analysis. However, AM and PM peak hour traffic conditions were evaluated for the four-way stop-controlled intersection of Ruby Avenue and Norwood Avenue adjacent to the site.

Traffic conditions at the study intersection were analyzed for the weekday AM and PM peak hours, typically considered to be between 7:00 and 9:00 AM and between 4:00 and 6:00 PM. It is during these periods that the most congested traffic conditions occur on a typical weekday. The weekday AM and PM peak hours represent the worst-case traffic scenario, since ambient traffic levels in the study area are lower during other times of the weekday and on weekends. Traffic conditions were evaluated for the following scenarios:

- *Existing Conditions.* Existing weekday AM and PM peak hour traffic volumes were obtained from new manual turning movement counts conducted on Wednesday, September 11, 2019 (refer to Appendix H);
- *Existing Plus Project Conditions.* Existing plus project traffic volumes were estimated by adding the additional traffic generated by the project to existing traffic volumes.

Because the City of San José has not established a level of service standard for unsignalized intersections, the LTA evaluated the unsignalized intersection of Ruby Avenue and Norwood Avenue for potential operational issues. A signal warrant analysis and a roundabout analysis were prepared as described below. The LTA also includes an analysis of site access, on-site circulation, vehicle queuing, and effects to transit, bicycle, and pedestrian facilities.

Observed Existing Traffic Conditions at the Study Intersection

Traffic conditions during midday and AM and PM peak hours were observed in the field by *Hexagon* during field observations conducted in September 2019 (pre-COVID, when traffic levels were typical) to identify any existing operational deficiencies at the study intersection. The observations revealed that the intersection of Ruby Avenue and Norwood Avenue operated generally well. It was noted that the heaviest time of traffic was in the northbound direction on Ruby Avenue from 7:35 AM to 7:50 AM. This is likely due to the beginning of the school day at the nearby Evergreen Valley High School. It was observed that the maximum queue for the northbound through movement was seven vehicles long. When this maximum queue occurred, it took approximately 40 seconds for the last vehicle (7th vehicle) in the queue to clear the intersection. However, typical northbound queues at the intersection during this peak traffic period of the day were four to five vehicles in length.

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?

3.17.2.1 *Project Impacts*

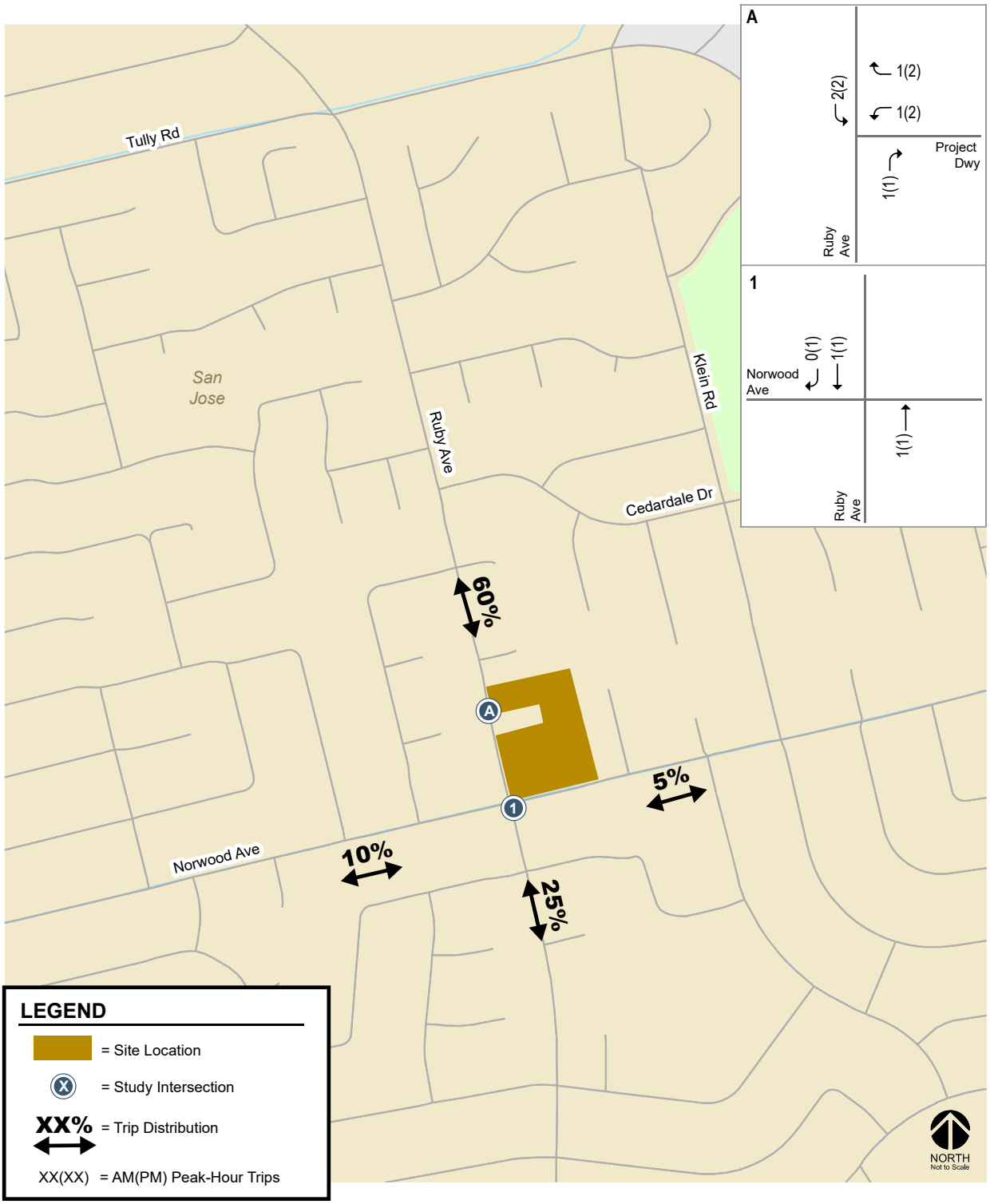
a) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?

Transit Facilities

Based on the existing conditions of the area, it was determined the area surrounding the project site is within ½ a mile of a bus stop but in general is not well served by public transit. The project is not expected to generate a substantial number of new transit trips because of its location and the accommodations proposed for visitor parking. Reserved off-site parking and a valet or shuttle service will be implemented for larger religious holidays and events. It is estimated that the small net increase in transit demand generated by the project could be accommodated by the current available ridership capacity of the local transit service in the project area. The project would increase pedestrian connectivity to the nearest bus stop by constructing sidewalks along the project frontages. Therefore, the proposed project would not conflict with any program, plan, ordinance, or policy addressing transit facilities. (**Less than Significant Impact)**

Roadway Facilities

The unsignalized intersection operations analysis conducted by *Hexagon* was intended to identify potential negative effects due to the addition of project traffic. The magnitude of traffic produced by the project and the locations where that traffic would appear were estimated using project trip generation, trip distribution, and trip assignment. The project trip distribution and the trip assignment assumptions are shown on Figure 3.17-1. The results of the unsignalized intersection operations analysis conducted by *Hexagon* showed that the intersection of Ruby Avenue and Norwood Avenue would continue to operate at an acceptable level of service with the addition of project trips, and that a traffic signal at the intersection is not warranted. In addition, the project is assisting the City with installation of street improvements consisting of a traffic circle or roundabout at this intersection, and the traffic study demonstrated that replacement of the current four-way stop-control configuration with the planned roundabout configuration would improve the already acceptable (pre and post project) level of service in both the AM and PM peak hours. The roundabout is being constructed with the project, which would provide 25 percent of the cost of the roundabout with the other 75 percent of the cost being reimbursed by the City of San José. Additionally, the project will construct a driveway along the Ruby Avenue project frontage. Based on the foregoing, the proposed project would not result in conflicts with programs plans or ordinances, or policies affecting the circulation systems or roadways around the proposed project. **(Less than Significant Impact)**



Source: Hexagon Transportation Consultants, Inc., April 20, 2021.

PROJECT TRIP DISTRIBUTION PATTERN AND TRIP ASSIGNMENT | FIGURE 3.17-1

Bicycle and Pedestrian Facilities

Bicycle facilities in the project vicinity consists of bike lanes on Ruby Avenue. The project proposes no improvements to the bicycle network; however, there are planned improvements on Ruby Avenue. Based on the City of San José's 2018 Pavement Maintenance Program, the improvements will consist of adding standard bike lanes to Ruby Avenue along the project frontage (between Norwood Avenue and Pin Oak Court) and adding buffered bike lanes north of Pin Oak Court and south of Norwood Avenue. The continuous network of bike lanes on Ruby Avenue would provide bicyclists with a safe travel route to and from the project site.

As part of its required TPMP measures, the project would provide on-site showers and lockers to encourage members and employees to bicycle to and from the temple, thereby reducing vehicle trips and parking demand.

Pedestrian facilities in the immediate vicinity of the project site consist of sidewalks along the streets. The surrounding neighborhood is mostly residential, and there are few marked crosswalks. The project would construct new sidewalks along the project frontages on Ruby Avenue (12-foot sidewalk) and Norwood Avenue (10-foot sidewalk), resulting in improved pedestrian connectivity in the area. Additionally, the project will construct a handicap ramp at the northeast corner of Norwood Avenue and Ruby Avenue, resulting in improved pedestrian connectivity in the area. The timing of a majority of trips associated with the proposed project would not significantly overlap with pedestrian activities such as foot traffic of students on their way to school and the pedestrians would not be at greater risk of incident as a result of the project. Overall, the existing network of sidewalks exhibits adequate connectivity and would provide new residents and visitors with safe routes to transit services and other points of interest in the area. **(Less than Significant Impact)**

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

According to the LTA prepared for the proposed project, the temple would contribute vehicle trips similar to an office use of approximately 6,100 square feet. The Council Policy 5-1 (i.e. the City's VMT policy implementing Guidelines Section 15064.3), exempts office projects under 10,000 square feet in size. Therefore, the proposed project would represent a project of size lower than the screening criteria for Policy 5-1.

As the proposed project would conform to the City Council Policy 5-1, it would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). **(Less than Significant Impact)**

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

The project would construct a 12-foot-wide sidewalk with tree wells along its frontage on Ruby Avenue and a 10-foot wide sidewalk with tree wells on Norwood Avenue. After a review of the project's entrance driveway, and based on a Caltrans stopping sight distance of 300 feet, it was concluded that the project driveway would meet the Caltrans stopping sight distance standard, which

would reduce the likelihood of traffic collisions, and conflicts with bicycles and pedestrians. Based on the traffic analysis, the driveway width would be 26 feet, consistent with the City standard for a two-way driveway.

The project includes the installation of ADA compliant curb ramps at the southwest corner of the project site (i.e., northeast corner of the Ruby Avenue and Norwood Avenue intersection): one on Ruby Avenue and one on Norwood Avenue. The project also includes sidewalk improvements which would ensure pedestrian connectivity and safety in the area.

With the widening of the entrance driveway to meet the City standard, for a two-way driveway, and construction of the sidewalks and curb ramps as described, the project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses. **(Less than Significant Impact)**

d) Would the project result in inadequate emergency access?

The project has been designed to meet the SJFD requirements that all portions of the buildings be within 150 feet of a fire department access road and have a minimum of six feet clearance from the property line along all sides of the buildings. Emergency vehicles could park on Norwood Avenue and Ruby Avenue to access the project site. Additional fire access would be provided via the surface parking lot and a fire access gate would be provided at the southeast corner of the site. On-site circulation for meets the City's design standard for fire truck access. Therefore, the project would therefore not result in inadequate emergency access. **(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 EEHDP was adopted to address cumulative transportation impacts in the Evergreen-East Hills area of the City. As explained above, the project would conform to the EEHDP requirement of paying a transportation impact fee (TIF) to help fund transportation improvements in the area to mitigate the effects of cumulative impacts. The TIF is based on the project's conservatively estimated trip generation and will be used to fund the transportation improvements identified as mitigation in the EEHDP Supplemental EIR, thereby mitigating the project's potential transportation impacts. By paying the TIF, the project would not result in a cumulatively considerable contribution to a significant cumulative transportation impact. **(Less than Significant Cumulative Impact)**

3.17.3 Non-CEQA Effects

City Council Policy 5-1 requires preparation of a 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. These issues have been analyzed in the impact discussion above [a) through d)]. The following discussion provides information regarding the on- and off-site parking proposed by the project.

Roadway Operations

Trip Generation

The magnitude of traffic added to the roadway system by a particular development is estimated by multiplying the applicable trip generation rates (per the *Trip Generation Manual, 10th Edition* [2017] published by the Institute of Transportation Engineers [ITE]) by the size of the development.

The trips that would be generated by the proposed project were conservatively estimated using the ITE trip rates for "Church". The proposed religious assembly use would operate similar to a church, which includes worship service, meeting space for community gathering, catering facilities for events, office space, and classroom space. Although churches do not typically include residences, any trips generated by the project's eight monks residing on-site would occur outside the typical weekday AM and PM peak traffic periods of the day and are expected to occur infrequently. The project would generate trips on weekends, however the ambient traffic levels in the study area would be higher during the weekday peak periods of traffic than during the weekend peak periods of traffic (even with a large special event held at the temple) due to the nearby schools and because the study area consists almost entirely of residential uses (i.e., weekday commuters). As a result, evaluating traffic volumes during the typical weekday AM and PM peak commute periods of the day presents a worst-case (conservative) traffic condition. Based on a total of approximately 13,902 square feet of project floor area and applying the standard ITE rates for "Church" (ITE Land Use 560) per the City's requirement, it is estimated that the project on a typical day without large events would generate approximately 97 daily vehicle trips, with 5 trips (3 inbound and 2 outbound) occurring during the weekday AM peak hour and 7 trips (3 inbound and 4 outbound) occurring during the weekday PM peak hour.

According to the schedule of activities provided by the applicant (refer to Appendix H), it is estimated that 47 members would visit the site on a typical weekday. Based on an average occupancy of three people per vehicle, which is a reasonable assumption for this type of religious use (particularly since children represent 30 percent of the membership), this equates to approximately 16 vehicles or 32 daily vehicle trips (16 inbound trips and 16 outbound trips) on a typical weekday. Thus, the actual daily trip generated by the project is expected to be less than that of a typical church use.

For larger, less frequent events such as wedding and temple anniversaries, the project is expected to generate approximately 190 to 300 member visits, although not all trips would travel to/from the site, as some patrons would utilize off-site parking as discussed in the Project Description. Based on the same occupancy of an average of three people per vehicle it is expected that 50 to 100 vehicles would visit the site or alternative parking location. This would represent 100 to 200 trips for the day of the large event which would increase the number of vehicles and congestion on local streets resulting in some delays in areas surrounding the project site during arrival and departure of the vehicles. These delays would be temporary and would not represent a significant portion of traffic operations for the area around the project site. Therefore, these events would not result in a substantial degradation of traffic operations.

Trip Distribution and Assignment

The trip distribution pattern for the project was estimated based on the existing and proposed Wat Khmer Kampuchea Krom (or "Temple") visitors (300), patterns on the surrounding roadway network that reflect typical weekday AM and PM commute patterns, the locations of complementary land uses, and freeway access points. The peak hour vehicle trips generated by the project were assigned to the roadway network in accordance with standard trip distribution pattern.

Traffic Volumes

Existing AM and PM peak hour traffic volumes were obtained from manual turning movement counts conducted in September 2019 (refer to Appendix H). The September 2019 count data were reviewed and approved by the City of San Jose Department of Transportation for use in the *Hexagon* transportation analysis. Project peak hour trips were added to existing peak hour traffic volumes to obtain existing plus project peak hour traffic volumes.

Signal Warrant

Traffic conditions at the unsignalized study intersection of Ruby Avenue and Norwood Avenue were assessed to determine whether a traffic signal would be warranted, based on the peak hour volume signal warrant (Warrant #3) described in the California Manual on Uniform Traffic Control Devices (CAMUTCD). This method makes no evaluation of intersection level of service, but simply provides an indication of whether peak-hour traffic volumes are, or would be, sufficient to justify the need for installation of a traffic signal. Intersections that meet the peak hour warrant are subject to further analysis before determining that a traffic signal is necessary. Additional analyses may include an unsignalized intersection level of service analysis and/or an operational analysis such as evaluating vehicle queuing and delay. Other options such as traffic control devices, signage, or geometric changes may be preferable at unsignalized intersections, based on existing field conditions. The results of the signal warrant check indicate that the AM and PM peak-hour volumes at the unsignalized study intersection currently do not meet the signal warrant and would not meet the warrant with the addition of net new traffic generated by the project.

Roundabout Analysis

For informational purposes, a roundabout analysis was prepared for the unsignalized intersection of Ruby Avenue and Norwood Avenue, which is proposed as a condition of the project. The intersection operations of the current four-way stop-control configuration were compared to the operations with a single-lane roundabout configuration. The results of the analysis show that the intersection is operating adequately with the current stop-control configuration (LOS C and B during the weekday AM and PM peak hours, respectively) and would continue to operate adequately with the proposed project. For informational purposes, the intersection level of service would improve to LOS A during both peak hours with a roundabout configuration. Based on the existing widths of Ruby Avenue and Norwood Avenue, a small-diameter roundabout design with a mountable central island would be feasible at this intersection. The project is required to make a fair-share contribution, of 25 percent of the total cost, toward a roundabout in this location. It is assumed for purposes of this analysis that the roundabout project would be implemented concurrently with the proposed project and would not require an expansion of right of way at the intersection of Norwood Avenue and Ruby Avenue.

Parking

On-Site Parking

The project would provide an approximately 67-space shared on-site parking lot plus two motorcycle parking spaces for all activities and events that would occur at the Buddhist Temple facilities. The project would employ a staggered schedule of activities such that while certain activities would generate parking demand, others would not. As detailed above, the activities associated with the temple (i.e., religious assembly) would generate the highest parking demand of all of the on-site activities. Therefore, the parking demand for "religious assembly" was conservatively used to determine the project parking requirement. City of San José Municipal Code Section 20.90.060 specifies a ratio of one space per 30 square feet of area designated for religious assembly. Based on approximately 1,969 square feet of temple assembly and circulation space, this equates to a vehicle parking requirement of 66 spaces.[63] All other on-site activities that would occur at other times would require less parking and, thus, would not contribute toward the project parking requirement.[64]

Based on the following assumptions, it is expected that the parking demand for member visitors during the regular events would be accommodated by the proposed 67 on-site parking spaces and two motorcycle parking spaces. The City's vehicle parking requirement of 66 spaces is based on the square footage of the temple's assembly and circulation space. However, that requirement does not consider the actual number of temple visitors and does not account for any particular vehicle occupancy rate. Based on an average occupancy of three people per vehicle, which is a reasonable assumption for this type of religious use, particularly since children represent 30 percent of the membership, 67 on-site visitor parking spaces would equate to 201 people. Assuming up to four parking spaces would be used by event staff and one would be shared by the permanent residents (i.e., eight monks), 63 spaces would be available for visitors. Accordingly, events held at the temple facility of up to 195 visitors (63 spaces x three people per vehicle = 189 visitors) on the site at any given time could be accommodated by the on-site parking lot. Any special events that would attract more than 190 visitors would require additional off-site parking, which would be provided through off-site valet service as part of the project.

Parking is allowed on surrounding neighborhood streets, and it is possible at times that when on-site parking is unavailable, temple attendees may park on surrounding streets, as allowed by City code, unless a permit parking program is in effect. Parking 'intrusion' whereby cars associated with a use are parked in an adjacent neighborhood is not an environmental impact under CEQA unless it leads to physical changes to the environment, such as the physical deterioration of structures (i.e. blight) or emergency vehicle access is impeded on narrow, crowded streets from parked cars. These conditions would not result from the project due to the existing width of the area streets that already allow for on street parking and the safe passage of emergency vehicles and it is reasonable to assume that no physical deterioration of structures would occur. Permitted parking by non-residents on neighborhood streets is not a potential environmental impact under CEQA. If nearby residents desire to limit non-resident parking, the appropriate method for doing so would be to separately request that the City implement a permit parking program.

[63] 1,969 square feet x 1 space per 30 square feet = 65.6 spaces
[64] Hexagon Transportation Consultants, Inc. Local Transportation Analysis. May 2021.

Off-Site Parking

The project would implement various parking reduction strategies as part of a comprehensive TPMP plan to address the potential parking deficit during larger events. During religious holidays and special religious events held on the temple grounds, parking demand would increase compared to typical daily activities and could exceed the parking lot capacity. Accordingly, as a proactive measure to prevent parking overflow into the neighborhood, the temple plans to implement valet and shuttle services, including the use of off-site parking lots, for events anticipating more than 195 attendees, but no more than 250 attendees (see below for larger events). Specifically, the project proposes to secure a formal off-site parking agreement with the Evergreen Islamic Center located approximately half mile north of the project site on Ruby Avenue. The parking agreement would be in place for the life of the temple. As a backup plan in the event of a scheduling conflict with the Evergreen Islamic Center, the Buddhist Temple would reserve parking available at a nearby public school (See Section 2.2.5 for a detailed discussion).

For events of between 251 and 300 attendees, valet parking would not be possible due to the higher number of vehicles that would be arriving at the site and requiring a parking space. For these larger events, most visitors would be required to use the off-site parking lot and shuttle service.

3.18 TRIBAL CULTURAL RESOURCES

3.18.1 Environmental Setting

3.18.1.1 *Regulatory Framework*

State

Assembly Bill 52

AB 52, effective July 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*

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)?

The project site is not known to contain any tribal cultural resources, however, there is the possibility that tribal cultural resources could be uncovered during project construction, which would include excavation and grading. The City provided notice of the proposed project to culturally-affiliated tribes on March 12, 2022. The Tamien Nation tribe requested consultation as of April 20, 2022 and determined that the standard permit conditions for underground monitoring would be adequate for reducing impacts to resources.

As described in Section 3.5 Cultural Resources, the project would be required to implement standard permit conditions to avoid potential impacts to unknown subsurface cultural resources. These conditions would be applicable to tribal cultural resources and would function to avoid impacts to such resources if they are discovered on-site. Therefore, the proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is listed on local or state registers. **(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?

As discussed above under checklist question a), there are no known tribal cultural resources on the project site, but implementation of the project could disturb unknown subsurface resources. These resources may not be eligible for listing in the CRHR, but the City or its consultant could nonetheless determine resources uncovered during construction to be significant. The proposed project would be required to implement standard permit conditions which address any accidental disturbance of cultural resources and set forth the appropriate procedure to be followed in the event of discovery. Implementation of these conditions would ensure the project does not cause a substantial adverse change in the significance of a tribal cultural resource that is determined to be significant by the City. Therefore, the impact would be less than significant. **(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?

Cumulatively, other projects in the City of San José may require excavation and grading or other activities that have the potential to affect tribal cultural resources. No tribal cultural resources were identified within the project area, although the City of San José contains numerous Native American archaeological sites.

Other projects involving excavation and/or specified grading would also be required to implement standard permit conditions and/or mitigation measures that would avoid impacts and/or reduce them to a less than significant level consistent with CEQA and AB 52 requirements. These projects would also be subject to the federal, state, and county laws regulating archaeological resources and human remains. However, projects developed prior to the passage of CEQA and prior to the passage of AB 52 may not have accounted for impacts to tribal cultural resources. However, the City does not have information about any such prior impacts. Based on the foregoing, the proposed project would have a less than significant impact on tribal cultural resources and would not make a cumulatively considerable contribution to significant cumulative impacts to tribal cultural resources from past development in San Jose. **(Less than Significant Cumulative Impact)**

3.19 UTILITIES AND SERVICE SYSTEMS

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. The 2020 Urban Water Management Plan, currently in draft form, projects water supplies and demands during normal and drought years over the next 25 years.

The City has also a Water Shortage Contingency Plan, which establishes planned actions and processes that will be implemented during a drought, including water use restrictions. This document provides a plan of action during various stages of a water shortage, in compliance with Section 10632 of the California Water Code. In response to the 2012-2016 drought, the Department of Water Resources (DWR) updated Water Shortage Contingency Plan (WSCP) requirements in 2020. Updates in this 2020 WSCP include Annual Water Supply and Demand Assessment procedures, the standardization of water supply stages of action for the WSCP, and the quantification of how each contingency action affects supply and demand. The City's policy is to maximize the use of its resources, each to its best application, to maintain water supply under varying levels of availability, with a focus on ensuring public health and safety.[65] Both the 2020 Urban Water Management Plan and the City's Water Shortage Contingency Plan have been adopted during the summer of 2021.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste Management Board, required the implementation of integrated waste management plans, and mandated that 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.

[65] City of San José Drinking Water webpage. Accessed May 25, 2021. https://www.sanjoseca.gov/your-government/environment/water-utilities/drinking-water.

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.

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 50 percent of nonhazardous construction and demolition debris; and
- Providing readily accessible areas for recycling by occupants.

Local

Envision San José 2040 General Plan

The Envision San José 2040 General contains the following policies which are specific to utilities and service systems and applicable to the proposed project:

General Plan Policies - Utilities	
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs for approved affordable housing projects.
Policy IN-3.5	Require development which will have the potential to reduce downstream LOS to lower than “D”, or development which would be served by downstream lines already operating at a LOS lower than “D”, to provide mitigation measures to improve the LOS to “D” or better, either acting independently or jointly with other developments in the same area or in coordination with the City’s Sanitary Sewer Capital Improvement Program.
Policy IN-3.7	Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage

General Plan Policies - Utilities	
	improvements for proposed developments per City standards.
Policy MS-3.1	Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit.
Policy IN-5.1	Monitor the continued availability of long-term collection, transfer, recycling and disposal capacity to ensure adequate solid waste capacity. Periodically assess infrastructure needs to support the City's waste diversion goals. Work with private MRF and Landfill operators to provide facility capacity to implement new City programs to expand recycling, composting and other waste processing.
Policy 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.
Policy IN-5.4	Support the expansion of infrastructure to provide increased capacity for Materials Recovery Facilities (MRF)/transfer, composting, and Construction and Demolition materials processing (C&D) at privately operated facilities and on lands under City control to provide increased long-term flexibility and certainty.

In addition to the above-listed San José General Plan policies, new development in the City of San José is also required to comply with programs that mandate the use of water-conserving features and appliances and the Santa Clara County Integrated Watershed Management (IWM) Program, which minimizes solid waste.

San José Zero Waste Strategic Plan/Climate Smart San José

The 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 José goals, including 75 percent waste diversion by 2013 and zero waste by 2022. The Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for the City of San José residents and businesses.

San José Sewer System Management Plan

The purpose of the Sewer System Management Plan (SSMP) is to provide guidance to the City in the operation, maintenance, and rehabilitation of the sewer assets of the City of San José. The SSMP includes construction standards and specifications for the installation and repair of the collection system and its associated infrastructure.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of City 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.

Construction and Demolition Diversion Deposit Program

The City of San José's Construction & Demolition Diversion Program (CDD) was created in 2001 to encourage the recovery of debris from construction and demolition projects using financial incentives. The program successfully increased CR&D waste diversion through a refundable deposit system based on contractors providing proper documentation showing that construction debris has been appropriately diverted from landfilling. The City of San José adopted its own ordinance, aiming to ensure that at least 65% (now 75%) of construction waste is recovered and diverted. All CR&D waste materials must be sent for reuse or to a certified processing facility. All processing facilities are mandated to divert 75% of incoming materials.

3.19.1.2 *Existing Conditions*

Water

New water service to the site will be supplied by the San Jose Municipal Water System (Muni Water), which is owned and operated by the City of San Jose. Muni Water gets treated surface water from Valley Water and delivers it to customers in the Evergreen area of San Jose. Valley Water's source water is mainly imported from the South Bay Aqueduct, Lake Del Valle, and San Luis Reservoir, which all draw water from the Sacramento-San Joaquin Delta watershed. Local water sources include Anderson and Calero Reservoirs in Morgan Hill and the City of San José, respectively. Water is pumped from these reservoirs to the Santa Teresa Water Treatment Plant in the City of San José.

Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. There are existing 8-inch sanitary sewer mains along Ruby Avenue and Norwood Avenue that are available to serve the proposed project site.

The City's average dry weather flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José Santa Clara Regional Wastewater Facility (RWF) is

approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.[66]

Stormwater Drainage

The City of San José owns and maintains the municipal storm drainage system which serves the project site. As stated in Section 3.10 Hydrology and Water Quality, there are existing storm drain facilities, including a 42-inch storm drain main along Ruby Avenue and existing 12-inch main and 66-inch storm drain main along Norwood Avenue adjacent to the site that convey stormwater from the site through the storm lines in Norwood Avenue and the Norwood Creek channel to Thompson Creek, a tributary of Coyote Creek, approximately 1.5 miles southwest of the site. The site currently contains no structures or large paved areas, and is estimated to be approximately 97 percent pervious.

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. According to the IWMP, Santa Clara County has adequate disposal capacity beyond 2022. 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. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in the City of San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. These landfills include the Guadalupe Mines, Kirby Canyon, Newby Island, Zanker Road Materials Processing Facility, and Zanker Road landfills.

3.19.2 Impact Discussion

For the purpose of determining the significance of the project's impact on utilities and service systems, the inquiry is whether the project would:

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?

[66] City of San José. Envision 2040 General Plan FEIR. 2011

3.19.2.1 *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

The proposed project is in an urbanized area and water would be conveyed to the site via existing water facilities. Lateral connections to existing water lines in adjacent streets would occur during grading at the site and would result in minimal environmental impacts. As described below under checklist question b, there are adequate water supplies available to serve the project and no major upgrades to existing water conveyance infrastructure would be required. Thus, the project would not result in significant environmental effects related to the relocation or construction of water facilities. **(Less than Significant Impact)**

Wastewater Facilities

The proposed project would convey wastewater from the site via existing sanitary sewer lines in Ruby Avenue and Norwood Avenue. Lateral connections to existing sewer lines in adjacent streets would occur during grading at the site and is not expected to result in any related environmental impacts. As described below under checklist question c, there is adequate wastewater treatment capacity at the RWF to accommodate the increased wastewater flows resulting from the project. Therefore, the project would not require the relocation or reconstruction of new or expanded wastewater facilities. **(Less than Significant Impact)**

Stormwater Facilities

The project would result in an increase in post-construction stormwater runoff compared to the existing condition of the site, as the proposed development would replace existing pervious surfaces with impervious surfaces. As described in Section 3.10.2.1 Project Impacts, the project would, in conformance with Provision C.3 of the MRP, incorporate bioretention basins and manholes that would be designed for pollutant removal but would also function as flow and volume controls, reducing post-project runoff to estimated pre-project rates and durations. Thus, the demand placed on the City's stormwater drainage system would not be increased by the project. There is adequate capacity in the existing storm drain lines in Ruby Avenue and Norwood Avenue to convey post-construction runoff flows from the project site – no new storm drains are proposed to be constructed by the project. Therefore, the project would not require the relocation or reconstruction of new or expanded stormwater drainage. **(Less than Significant Impact)**

Electric Power, Natural Gas, and Telecommunications

The project site is located in an urban area with utility services readily available. The project would connect to existing utilities for electric power, and telecommunications services. The proposed project would not include natural gas connections. The project would not interfere with or require modification of any utility easements. Therefore, the project would not result in the relocation or

construction of new or expanded electric power, natural gas, or telecommunications utilities. **(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?

The proposed project would consume approximately 3,055 gpd of water which is equivalent to approximately 3.42 acre-feet per year which is less than 0.1 percent of the total water demand of the City of San José. According to the 2020 Urban Water Management Plan (UWMP), projected water supplies meet projected demands through 2045, as the supplies of the wholesalers, Valley Water and the San Francisco Public Utilities Commission (SFPUC), are available to meet the projected demands for all retailers (including Muni Water). Valley Water's draft 2020 UWMP noted that imported and groundwater supplies appear to be sufficient to meet demands during a single dry year through 2045. This assumes that reserves are at healthy levels at the beginning of the year and that the projects and programs identified in their Water Supply and Infrastructure Master Plan are implemented. If reserves are low at the beginning of a single dry year, Valley Water might impose water use reductions in combination with using reserves, as they did in 2021.

The greatest challenge to water supply reliability is multiple dry years, such as those that occurred in 1987 through 1992 and in 2012 through 2015. Multiple dry year periods have the potential to deplete supply reserves, including local groundwater storage. With existing and planned projects under their Water Supply Master Plan, and under current regulations, Valley Water has determined that their diverse water supplies are sufficient throughout the full five-year drought in all demand years (Valley Water, 2021). Projected supplies available to the City of San José from SFPUC during multi-dry years range from 46 percent to 64 percent each year through 2045. Based on cumulative available water supplies, this represents a total Muni Water potable supply shortage between approximately 5percent to 10 percent during a given multi-dry year, which will be managed utilizing conservation measures as identified in Muni Water's Water Shortage Contingency Plan. Table 3.19-1 presents the projected multiple-dry year water supply and demand assessment for Muni Water, in acre-feet.

Table 3.19-1: Multiple Dry Years Supply and Demand Comparison (Potable) (acre-feet)

		2025	***2030***	***2035***	***2040***
First Year	Supply Totals	19,265	22,330	25,505	30,977
	Demand Totals	21,080	24,156	27,342	32,814
	Difference	*(1,815)*	*(1,826)*	*(1,837)*	*(1,837)*
Second Year	Supply Totals	19,421	22,508	26,140	30,666
	Demand Totals	21,695	24,793	28,437	32,962
	Difference	*(2,274)*	*(2,285)*	*(2,296)*	*(2,296)*
Third Year	Supply Totals	20,036	23,145	27,235	30,813
	Demand Totals	22,310	25,431	29,531	33,110
	Difference	*(2,274)*	*(2,285)*	*2,296)*	*(2,296)*
Fourth Year	Supply Totals	20,652	23,783	28,329	30,636
	Demand Totals	22,926	26,068	30,626	33,258
	Difference	*(2,274)*	*(2,285)*	*(2,296)*	*(2,621)*
Fifth Year	Supply Totals	21,267	24,420	29,200	30,784
	Demand Totals	23,541	26,705	31,720	33,405
	Difference	*(2,274)*	*(2,285)*	*(2,521)*	*(2,621)*

Notes:

1. Supply Totals includes projected supplies available from SFPUC and Valley Water (which includes groundwater) during five-year shortages ranging from 2025-2030 through 2040-2045.
2. Table excludes recycled water which is 100% available in all years.

In summary, to help bridge the gap between supply and demand during a multiyear drought, Valley Water would likely implement a combination of calls for countywide short-term water use reductions, use of reserves, and obtaining additional supplement supplies through transfers and/or exchanges. The actual mix of these options would be determined through Valley Water's annual operations planning process. In the first year of drought, Valley Water would most likely rely on available reserves. In subsequent years, as reserves are depleted, Valley Water would need to rely more on short term water use reductions and supplemental supplies. As possible and necessary, Muni water would coordinate regularly with Valley Water during any dry period to utilize supplies which are most readily available, while preserving and/or limiting use of other supplies.

Water demand projections through 2040 were based on the City's 2020 UWMP which included information on water use, sorted by service area and user type, to identify use trends. That study included projected growth as included within the Envision San José 2040 General Plan. To be consistent with that General Plan, demands for the year 2040 are the same in the 2020 UWMP. The proposed project is consistent with the development assumptions in the General Plan (see discussions in Section 3.8.2.1 and in Section 7.0). Based on the foregoing, there would be sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. **(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?

As stated previously, the City currently has approximately 38.8 mgd of excess wastewater treatment capacity. The project is estimated to generate a net increase of approximately 2,750 gpd of wastewater.[67] Development allowed under the Envision San José 2040 General Plan (including the proposed project) would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the proposed project would have a less than significant impact on wastewater treatment capacity. **(Less Than Significant Impact)**

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The proposed project would generate a net increase of approximately 0.21 tons of solid waste per day.[68] Based on the upper limit, the existing landfills in San José would have sufficient permitted capacity of 5.3 million tons per year to receive the additional waste generated by new development in

[67] CalEEMod. Water Use Rates.
Water use Rate for Place of worship (per 1000 sq ft) Indoor 31,289 gal/year/Outdoor 48,939 gal/year
13,902 sq ft x (31,289 gallons/year + 48,939gallons per year) / 1000 sq ft =1,115,329 gallons per year /365 days per year = 3,055 gpd
Wastewater is approximately 90 percent of total water usage, therefore 3,293 gpd x 0.9 = 2,750 gal/ day
[68] CalEEMod. Solid Waste Disposal Rates Table 10.1.
Solid Waste Generation for Place of Worship - 13,902 sq ft x 5.70 tons per year /1000 sq ft / 365 days= .21 tons

the City.[69] The General Plan FEIR concluded that the increase in waste generated by full build out of the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City and would not be in excess of state standards. Future increases in solid waste generation from developments allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not exceed the capacity of landfills serving the City's expected population through 2040.

The proposed project is consistent with the development assumptions in the General Plan and would be required to conform to City plans and policies to reduce solid waste generation and increase waste diversion, such as the Zero Waste Strategic Plan and General Plan Policies IN-5.1, IN-5.3, and IN-5.4. The proposed project would be required to meet the City's diversion goals of 75 percent waste reduction post-2013 and zero waste by 2022. Additionally, the proposed project would support the goals of the Zero Waste Strategic Plan by complying with the City's Construction and Demolition Diversion Program (which ensures that at least 75 percent of this construction waste is recovered and diverted from landfills) and providing readily accessible areas for recycling that serve all of the buildings on-site. Therefore, based on the foregoing, implementation of the proposed project would have a less than significant impact on solid waste disposal capacity. **(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?

As discussed under impact 3.19.2 d, the project would comply with City plans and policies to reduce solid waste generation and increase waste diversion, and impacts would be less than significant. **(Less than Significant Impact)**

3.19.2.2 *Cumulative Impacts*

Would the project result in a cumulatively considerable contribution to a significant cumulative utilities and service systems impact?

As discussed above, the City's stormwater, water, wastewater, solid waste, and other utility service systems are adequately prepared to serve General Plan buildout through 2040 upon adherence to existing policies, plans and regulations. The cumulative settings of these resources are defined by the City's developable boundaries as defined by the General Plan. Other projects in the City will be evaluated at a project-level to ensure compliance with level of service standards for the utilities discussed above; necessary improvement to utility service systems and project-specific mitigation measures would be implemented.

The program-level mitigation measures and conditions set forth in the 2040 General Plan FEIR would address impacts to utilities and service systems from cumulative development and reduce these impacts to a less than significant level. The proposed project is consistent with development expected upon General Plan build out and would not conflict or interfere with implementation of applicable mitigation measures; therefore, based on the foregoing, the proposed project would not

[69] City of San José. Downtown Strategy 2040 Integrated Final EIR. December 2018.

result in a cumulatively considerable contribution to a significant cumulative utilities and service systems impact. **(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 Section4428);
- 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.

Local

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.[70] 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 required to be approved by the SJFD.

3.20.1.2 *Existing Conditions*

According to the Cal Fire, Fire Hazard Severity Maps the project site is not located within a Fire Hazard Severity Zone or the Wildland Urban Interface (WUI) zone.[71]

3.20.2 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?

[70] San José Fire Department. *Wildland-Urban Interface (WUI) Fire Conformance Policy.* January 1, 2017. https://www.sanjoseca.gov/Home/ShowDocument?id=9345
[71] Cal Fire. *Very High Fire Hazard Severity Zones in LRA*. Accessed April 6, 2021. https://osfm.fire.ca.gov/media/5935/san_jose.pdf.

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?

3.20.2.1 *Project Impacts*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity or WUI zones; therefore, the project would not result in wildfire impacts. **(No Impact)**

3.20.2.2 *Cumulative Impacts*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity or WUI zones; therefore, the project would not 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?

The CEQA Guidelines require that an EIR identify the likelihood that a proposed project could "foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment" (Section 15126.2[e]). This section of the Draft EIR is intended to evaluate the impacts of such growth in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include removing obstacles to population growth, for example by extending or expanding infrastructure beyond what is needed to serve the project. Other examples of growth inducement include increases in population that may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects.

The proposed project would change the land use on the subject site from an existing vacant site to religious assembly use consisting of the Temple Sanctuary building, monk's residence hall with five bedrooms, and a Community building with a community hall, finishing kitchen, library/classroom, administrative offices, and restrooms. The project would not have any effect on economic growth, and would only result in a minor net increase in population growth locally with the addition of shared dwelling units with multiple sleeping rooms for eight monks. The project would be consistent with the *Residential Neighborhood* General Plan Land Use designation for the site, and would not be expected to foster additional growth beyond what would otherwise be allowed on the site under the General Plan. **(Less than Significant Impact)**

SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

This section was prepared pursuant to CEQA Guidelines Section 15126.2(d), which requires a discussion of the significant irreversible changes that would result from the implementation of a proposed project. As explained in CEQA Guidelines Section 15126.2(d), significant irreversible changes could include the use of nonrenewable resources, the commitment of future generations to similar use, irreversible damage resulting from environmental accidents associated with a project, and irretrievable commitments of resources.

5.1 USE OF NONRENEWABLE RESOURCES

As explained in CEQA Guidelines Section 15126.2(d), the use of nonrenewable resources "during the initial and continued phases of [a] project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely [sic]." During construction and operation of the project, nonrenewable resources would be consumed. Unlike renewable resources, nonrenewable resources cannot be regenerated over time. Nonrenewable resources include fossil fuels and metals. Renewable resources, such as lumber and other wood byproducts, could also be used.

Energy, as discussed in more detail in Section 3.6, would be consumed during both the construction and operational phases of the project. The construction phase would require the use of nonrenewable construction material, such as concrete, metals, plastics, and glass. Nonrenewable resources and energy would also be consumed during the manufacturing and transportation of building materials, site preparation, and construction of the buildings. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, appliances, and electronics. Energy, in the form of fossil fuels, will be used to fuel vehicles traveling to and from the project site.

Development of the project would result in an increase in demand for nonrenewable resources. Green building, however, is a key City strategy to achieve long-term sustainability and reach its GHG reduction goals. The project would be subject to CALGreen energy-efficiency requirements and the City's Reach Code. Electricity for the project would be provided by SJCE which provides 80 percent GHG emission-free electricity automatically, with the option to receive 100 percent GHG emission-free electricity from entirely renewable sources. The project landscaping would include low-water use plants to reduce operational energy demands related to irrigation.

For these reasons, the proposed project would minimize the use of nonrenewable energy resources and would not result in a significant irreversible environmental change related to the use of nonrenewable resources.

5.2 COMMITMENT OF FUTURE GENERATIONS TO SIMILAR USE

As explained in CEQA Guidelines Section 15126.2(d): "Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area)" could commit future generations to similar uses. The proposed project would be developed on a site that is within a fully developed urban area. Development of the project would commit resources to prepare the site, construct the buildings and site improvements, and operate the buildings. However, the proposed project would not result in physical or regulatory land use changes that could not be reversed. The proposed project would limit development to within the project site boundaries and

would only include minor off-site right-of-way improvements, such as sidewalks site access points. Therefore, the proposed project would not commit future generations to similar use.

5.3 IRREVERSIBLE DAMAGE FROM ENVIRONMENTAL ACCIDENTS

As explained in CEQA Guidelines Section 15126.2(d), (depending on the nature of a project), it could result in irreversible damage from environmental accidents associated with the project. The project does not propose hazardous uses, and its operation would not be expected to cause environmental accidents that would impact other areas. As discussed in Section 3.9 Hazards and Hazardous Materials, there are no significant unmitigable hazards and hazardous materials conditions on-site or off-site that would substantially affect the public and surrounding environment. There would be no significant unmitigable geology and soils impacts from implementation of the project or future projects. For these reasons, the proposed project would not result in damage, let alone irreversible damage, that may result from environmental accidents.

5.4 IRRETRIEVABLE COMMITMENT OF RESOURCES

As explained in CEQA Guidelines Section 15126.2(d): "Irretrievable commitment of resources should be evaluated to assure that such current consumption is justified." As discussed above under Section 5.1, the project would consume nonrenewable resources during construction and operation. However, with implementation of the CALGreen Code, the City's Green Building Policies, Reach Code, and Greenhouse Gas Reduction Strategy, the project would minimize its consumption of nonrenewable resources and would not result in a significant irretrievable commitment of resources.

SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

The proposed project, with implementation of identified mitigation measures, would not result in any significant and unavoidable impacts. Significant and mitigable impacts are summarized previously in the Executive Summary, presented again below in Section 7.1, and largely pertain to temporary construction impacts.

SECTION 7.0 ALTERNATIVES

CEQA requires that an EIR identify alternatives to a project as it is proposed if the project would result in one or more significant unavoidable impacts. 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, therefore: 1) the significant impacts from the proposed project which could be reduced or avoided by an alternative, 2) the project's objectives, and 3) the feasibility of the alternatives available. Each of these factors is discussed below.

7.1 SIGNIFICANT IMPACTS OF THE PROJECT

As mentioned above, 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 basic project objectives. Impacts that would be significant without implementation of the aforementioned required mitigation measures include:

Significant Impacts that would be mitigated to Less than Significant Levels:

- Air Quality: Construction activities associated with the proposed project could result in nearby sensitive receptors being temporarily exposed to toxic air contaminant emissions in

excess of BAAQMD thresholds (cancer risk and $PM_{2.5}$ concentrations). **(Less than Significant Impact with Mitigation Incorporated)**

- Noise: Construction activities would expose adjacent residential uses to vibratory impacts. **(Less than Significant Impact with Mitigation Incorporated)**.
- Biological Resources: Development of the proposed project could result in impacts to nesting birds, if present on the site at the time of construction. Additionally, the proposed project could result in impacts to the trees preserved on site. **(Less than Significant Impact with Mitigation Incorporated)**.
- Hazardous Materials: Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and temporarily expose construction workers and nearby sensitive receptors. **(Less than Significant Impact with Mitigation Incorporated)**

All of the foregoing potentially significant impacts would be mitigated to less-than-significant levels with the implementation of mitigation measures**.** Therefore, the proposed project would not have any significant, unavoidable environmental impacts.

7.2 OBJECTIVES OF THE PROJECT

As identified in Section 2.3, the applicant's objectives for the project are as follows:

- Develop a traditional Cambodian Buddhist Temple to serve the existing local Khmer Krom religious community.

- Provide a new and adequate facility in size for religious observances, religious study, meditation services, and events by the Khmer Krom community which serves approximately 300 congregants.

- Develop an adequately sized Community building comprised of a community hall, finishing kitchen, library/classroom, administrative offices, and restrooms on the first floor, and a monks' residence hall for eight full-time resident monks on the partial second floor.

- Design and organize the new structures and site plan to conform with established Khmer religious principles and sacred elements while maximizing the functionality of the site.

- Provide adequate surface parking on-site for routine temple activities, consistent with the requirements contained in Title 20 of the City of San José Municipal Code.

- Provide outdoor gathering spaces for religious events, meditation, and reflection in accordance with Khmer religious principles.

- Replace an underutilized site with a private religious assembly facility that serves the community of San José.

7.3 ALTERNATIVES

CEQA Guidelines Section 15126.6(c) provides: "Among the factors that may be used to eliminate alternatives from detailed discussion in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts."

7.3.1 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and the 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 *may* 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]).

7.3.2 Analysis of Project Alternatives

7.3.2.1 *Alternatives Considered and Rejected*

CEQA Guidelines Section 15126.6(f) provides: "The range of alternatives required in an EIR is governed by the 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice" and "shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project." Again, CEQA Guidelines Section 15126.6(c) provides: "The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects." The following alternatives were considered and rejected as infeasible.

Location

CEQA Guidelines Section 15126.6(2)(A) provides: "The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location." Here, the project would not result in any significant unavoidable impacts. Even so, the possibility of an alternate project location was analyzed and determined to be infeasible for the following reasons.

In order to identify an alternative site that might be reasonably considered to "feasibly accomplish most of the basic purposes" of the project, and would also reduce significant impacts, it was assumed that such a site would ideally have the following characteristics:

- Vacant
- Controlled by the Applicant
- Would reduce impacts of the project

However, the location alternative would require the proposed project to be constructed at an alternative location owned or otherwise controlled by the project proponent. The project proponent is not a public agency capable of invoking eminent domain, therefore, any alternative location(s) would need to be sites which the applicant was capable of acquiring and which allow for religious assembly

uses. The feasibility of the project proponent acquiring or controlling a similar property suitable for meeting the project objectives identified for the proposed project is unknown. Further, CEQA Guideline Section 15126.6(a) indicates an EIR shall "describe a range of reasonable alternatives to the project, or to the location," which case law has confirmed means an EIR need not always include a location alternative, which as noted above, is more meaningful for a public agency able to acquire an alternative site through eminent domain, if needed, while a private project applicant is limited to a site(s) they can feasibly acquire or control. Additionally, a relocation of the project would not result in a reduction of impacts associated with the proposed project, it would cause those impacts, largely related to construction activity near residences, to occur at another location. Religious assembly uses are commonly placed near housing and in residential neighborhoods, and constructing the project at an alternative location that was similarly situated near housing would lead to similar construction related impacts that would require essentially the same mitigation measures identified for the project to reduce impacts to less than significant levels. Therefore, discussion of an alternative location for the proposed project is not required or useful and this alternative is rejected from further consideration.

Reduced Scale

The purpose of a reduced scale alternative would be to reduce the project size, in the event the project's scale would result in any significant impacts, whether due to the overall magnitude of the project's construction and/or operation impacts. Under a reduced scale alternative, the proposed project would be downsized sufficiently to reduce impacts created by the proposed project below identified thresholds of significance, such as air quality and GHGs. However, this EIR discloses that no significant unavoidable project impacts would result simply from the scale of the project, given the project is relatively modest in scale at just under 15,000 square feet of building area on an approximately 1.86-acre site, about the equivalent to the combined square footage of six typical new single-family homes of about 2,500 square feet each, which could be accommodated on that acreage. All impacts that would occur from implementation of the proposed project are capable of being mitigated to less than significant levels. The construction of a reduced scale project would result in similar construction impacts on air quality, biological resources, noise, and hazardous materials. Also, the project would not create any potentially significant impacts during operations to air quality or GHGs, such that reducing the project scale would bring those emissions below established thresholds, given project impacts are already below those thresholds. Therefore, because the proposed project would not result in any significant impacts attributable to the scale of the project, the reduced scale alternative is rejected from further consideration.

Reorganized and Reoriented Design

The purpose of a revised design alternative would change aspects of the project design, such as the location and orientation of project components on the project site, while maintaining the same scale of project. However, this EIR's analysis has not identified any significant project impacts resulting from the proposed project design, such as the proposed building footprint locations, the location of the project driveway, or the ceremonial courtyards. The project site does not have irreplaceable resources such as historic structures, known buried archaeological, tribal cultural or paleontological resources, individually significant trees whose removal is a substantial loss inconsistent with the City's tree preservation ordinance, or sensitive habitats such as wetlands, rare plants, or riparian zones that would be meaningfully avoided through development of a design alternative. Additionally, there are no areas with substantial existing hazards on the project site, such as geologic hazards,

flood hazards, wildfire risk, etc. and impacts related to soil contamination would not be avoided through development of a design alternative and would be mitigated to a less-than-significant level through the implementation of the required mitigation measures similar to the proposed project. Tree replacement would occur consistent with City requirements. Additionally, the project site is surrounded on all sides by residential development and relocating the proposed structures and/or courtyards to other places on the site, or the driveway on Ruby Avenue to Norwood Avenue, would not reduce noise or air quality emissions effects on surrounding uses, and shifting the buildings around on the site would place them closer to some homes than others, with little overall benefit. Therefore, there would be little benefit to developing an alternative project design, as the currently proposed project design has not been identified to result in any significant unavoidable impacts because implementation of the required mitigation measures discussed above would reduce all potential impacts to a less-than-significant level, which would not be further reduced through redesign; therefore, a design alternative is rejected from further consideration.

7.3.2.2 *No Project – No Development Alternative*

The CEQA Guidelines [§15126(d)4] require that when a project would result in a significant unavoidable impact, an EIR must 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 – No Development Alternative would retain the existing land uses on-site as is, a vacant site with numerous trees and an impervious driveway. If the project site were to remain undeveloped as is, the significant impacts resulting during construction and operation of the proposed project would not occur. This alternative would largely maintain the baseline conditions described throughout this EIR, however, this alternative would not meet any of the project objectives.

7.3.2.3 *No Project – Redevelopment with Currently Allowed Uses*

CEQA Guidelines Section 15126.6(e)(3)(C) provides: "After defining the no project alternative ... the Lead Agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services."

Given that the project site is located within the incorporated limits of San Jose, served by existing utilities, and has a Residential Neighborhood General Plan land use designation, it is not realistic to assume the project site would remain undeveloped in perpetuity if the proposed project is not approved. In fact, the project site was developed with housing as recently as 2020 (File Nos. H17-006, T16-061), when the existing structures were removed. Therefore, if the proposed project is not implemented, it is reasonable to assume the project site would be developed consistent with existing plans and policies applicable to the site and considering available infrastructure. Any future proposals for the site would require review and approval by the City of San José.

The Residential Neighborhood General Plan land use designation allows eight detached homes per acre, which for the subject 1.86 acre site would allow for up to 14 lots with each lot capable of accommodating a single-family detached (SFD) unit and potentially an accessory dwelling unit

(ADU). If the project site was developed with average sized single-family houses, the average size of each SFD structure would range from 1,500 to 2,500 square-feet of floor area. Therefore, development of the project site with potentially 14 of these SFD structures would cover approximately 21,000 to 35,000 square feet of building area on the site, plus the potential of additional building area for ADUs. ADUs are typically 250-650 square feet each. As noted earlier in several sections, the proposed project building area of approximately 13,902 square feet is roughly equivalent to six new SFD units, assuming those SFD units are typically 2,500 square feet each, common for new two-story home construction.

The subdivision of the site into up to 14 lots and the construction of up to 14 SFD units with combined building square footage of between 21,000 to 35,000 square feet (not factoring in potential ADUs) would result in similar construction air quality impacts and construction noise during, because similar parts of the site would require clearing and preparation and the scale of construction would be similar. The soils on-site were also determined to contain lead and pesticides which would require clean up regardless of the type of development on the project site. Additionally, the trees that would be removed under the proposed project would still require removal or relocation to construct other structures on-site. Therefore, the biological resource impacts would not be substantially different because the trees and nesting bird species would still be potentially impacted. The need for tree removal under a future subdivision with up to 14 SFD units would be similar to the subject project, depending on the lot pattern and grading for street access. A potential SFD subdivision of up to 14 units could be screened out as a Small Infill Development project of less than 15 units. Therefore, alternative development on site would not result in significantly different transportation impacts.

Other potential principally permitted development alternatives on the project site could include an alternative community serving use such as a public school (elementary or secondary), public museum, library, or community center, although the feasibility of accommodating some of those uses, e.g. a school, on a 1.86 acre site is unknown. If privately operated, the same facilities require conditional use authorization from the City's Planning Commission. Therefore, these alternative development options would result in in similar construction and operational impacts as the proposed project.

This alternative would not meet any of the project objectives, because it would not construct a Buddhist temple and would not include project aspects which are included in the project objectives above. Additionally, as stated above, this alternative would be expected to result in similar impacts due to the reasonably expected alternative project scenario (i.e., 14 SFD units, possibly with ADUs) or a similarly sized facility (e.g., a museum, library, or community site). Trips generated by the SFD units would be similar because each unit would generate approximately 10 trips resulting in a similar total daily trip generation. Furthermore, the currently proposed project would not result in any significant unavoidable impacts because implementation of the required mitigation measures discussed above would reduce all potential impacts to a less-than-significant level.

7.3.2.4 *Operational Adjustment Alternative*

The Operational Adjustment Alternative would implement changes in the non-essential operations of the proposed project to reduce impacts associated with the proposed project. The proposed project objectives include providing religious services for local observers. The two proposed activities which do not directly serve religious services are the flower fundraiser and wedding receptions on-site.

These are secondary uses that would help provide revenues to fund temple operations and therefore would not be eliminated all together.

These activities are identified to produce approximately 150 visitors on average which would increase traffic around the site, similar to other planned events. A reduction of activities at the site would reduce the frequency of on-site event noise and traffic generated by attendees. Additionally, the changes in operations could move certain temple events to alternative portions of the site, such as relocating certain ceremonies inside the on-site buildings, to potentially reduce already less than significant noise impacts on surrounding residential uses.

These changes to the proposed project would still meet most of the project objectives because they would not affect the base operations of the temple or compromise the proposed design elements described in the project objectives. The operational adjustments would result in incrementally reduced noise and traffic-related impacts on the neighborhood, due to fewer high noise events. This operational alternative would be better than the project in regards to the noise environment. However, this would not be necessary to reduce the proposed project's CEQA impacts related to noise and traffic, which are already at less than significant, nor would it satisfy the project objective of creating space for outdoor gatherings such as wedding receptions in accordance with Khmer religious principles.

Table 7.3-1 Alternative Comparison

Impact	Proposed Project	No Project Alternative – No Development	No Project – Redevelopment with Currently Allowed Uses	Operational Adjustment Alternative
Construction activities associated with the proposed project could result in nearby sensitive receptors being temporarily exposed to toxic air contaminant emissions in excess of BAAQMD thresholds (cancer risk and PM 2.5 concentrations).	LTSM	NI	LTSM	LTSM
Development of the proposed project could result in impacts to nesting birds, if present on the site at the time of construction. Additionally, the proposed project could result in impacts to the trees preserved on site.	LTSM	NI	LTSM	LTSM
Project soils on the site contain elevated levels of metals that could be released to the environment during project construction and temporarily expose	LTSM	NI	LTSM	LTSM

construction workers and nearby sensitive receptors.				
Construction noise levels would potentially exceed the General Plan thresholds and result in substantial noise generation at adjacent conventional buildings within 25 feet of the project site for more than 12 months.	LTSM	NI	LTSM	LTSM
Construction activities would expose adjacent residential uses to vibratory impacts.	LTSM	Ni	LTSM	LTSM
LTSM = Less than Significant Impact with Mitigation Incorporated NI = No Impact				

7.3.2.5 *Environmentally Superior Alternative*

The CEQA Guidelines mandate that an EIR identify an environmentally superior alternative if the project would result in one or more significant unavoidable impact. Based on the foregoing, the environmentally superior alternative is the No Project – No Development Alternative. When that is the case, the CEQA Guidelines require that an additional alternative be identified that is also an environmentally superior alternative. (Section 15126.6(e)(2).) The Operational Adjustment Alternative would be environmentally superior to the proposed project, while attaining most of the project objectives, with the exception of Objective #7.

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SECTION 9.0 LEAD AGENCY AND CONSULTANTS

9.1 LEAD AGENCY

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