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DRAFT
455 Piercy Road Industrial Warehouse Project
File Nos. H21-022 and ER21-082
Initial Study
City of San José, Santa Clara County, California

Prepared for:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

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Date: July 5, 2022

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MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: 455 Piercy Road Industrial Warehouse Project

PROJECT FILE NUMBER: H21-022 and ER21-082

PROJECT DESCRIPTION: The proposed project would include one new light industrial building and truck distribution infrastructure. The proposed industrial building would be approximately 121,580 square feet, consisting of approximately 116,580 square feet of warehouse space and approximately 5,000 square feet of mezzanine office space. The maximum height of the proposed structure would be 48 feet. Operations would include dry storage only, with no option for the conversion to cold storage in the future. Of the total 14.26 acres of the project site, the proposed development area (impact area) would occupy approximately 7.6 acres. The anticipated use involves high-cube storage and distribution with ancillary office and may include interior light manufacturing operations as permitted by the zoning code. The proposed project would include 17 loading docks, 132 auto parking stalls (including five accessible stalls and 11 stalls for clean air vehicles), 42 trailer parking stalls, three motorcycle parking spaces, and eight bicycle parking spaces. Site ingress and egress would be at the southwestern area of the project site, via Piercy Road. The proposed project would include three bioretention areas, totaling approximately 10,778 square feet.

PROJECT LOCATION: 455 Piercy Road, northwest of the intersection of Piercy Road and Hellyer Avenue, in the City of San José.

ASSESSORS PARCEL NO.: 678-93-030

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: InSite Property Group (Attn: Brian Sorensen); 19191 South Vermont Avenue, Suite 680, Torrance, CA 90502; Phone: (575) 936-0877; Email: bsorensen@insitepg.com.

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

A. AESTHETICS – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

B. AGRICULTURE AND FORESTRY RESOURCES – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

C. AIR QUALITY.

Impact AIR-1: Construction emissions of DPM would exceed Bay Area Air Quality Management District's (BAAQMD) cancer risk threshold of 10 per million by 4.64, which would also be in conflict Criterion 1 of the 2017 Clean Air Plan (Reduce population exposure to unhealthy air and protect public health in the Bay Area).

MM AIR-1: All off-road equipment equal to or greater than 50 horsepower shall meet either United States Environmental Protection Agency (EPA) or California Air Resources Board (ARB) Tier 4 Interim off-road emission standards or better during all construction activities. Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall submit a construction management plan to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee for review and approval, and the equipment specifications shall be included on the project plans for verification, prior to issuance of any grading and building permits. The construction management plan shall be accompanied by a letter signed by an air quality specialist, verifying that the off-road equipment used on-site to construct the proposed project would comply with Tier 4 Interim off-road emission standards or better. Off-road equipment descriptions and information included in the construction management plan may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.

Implementation of the mitigations described above would reduce the construction emissions of DPM below BAAQMD significance thresholds of 10 cases per one million for cancer risk.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: The proposed project has the potential to impact serpentine habitat and associated species, including Santa Clara Valley dudleya and Bay checkerspot butterfly.

MM BIO-1: Establish Serpentine Habitat and Plant Protection Area. In accordance with Conditions 10 (Fuel Buffer), 13 (Serpentine and Associated Covered Species Avoidance and Minimization), and 20 (Avoid and Minimize Impacts to Covered Plant Occurrences) of the Santa Clara Valley Habitat Plan (SCVHP), the proposed project shall avoid all serpentine habitats and covered special-status plants present on-site.

Prior to the start of any ground-disturbing construction activity, a Serpentine Habitat Protection Area (SHPA) shall be established covering the areas identified as Serpentine Outcrop and Serpentine Chaparral by a qualified Biologist. The boundary of the SHPA shall include a minimum buffer area of 30 feet from the outer boundary of all sensitive serpentine outcrops on the project parcel, or a larger buffer as defined by the qualified Biologist. In compliance with Condition 20, an approximately 4-foot tall high-visibility fence at the SHPA boundary shall be erected under the supervision of a qualified Biologist to ensure proper location and prevent damage to plants during

installation. Fencing shall be installed before any site preparation or construction work begins and shall remain in place for the duration of construction. Construction personnel shall be prohibited from entering these areas (the exclusion zone) for the duration of project construction. After completion of the project, the fence shall be removed. The SHPA shall be shown on the project plans, in addition to the requirement for qualified biologist supervision for fence erection, to be verified by the Director of PBCE or the Director's designee prior to the issuance of a demolition or grading permit, whichever occurs first.

Implementation of MM BIO-1 would reduce potential impacts to serpentine habitat and associated species, including Santa Clara Valley dudleya and Bay checkerspot butterfly.

Impact BIO-2: Construction of the proposed project has potential to impact western burrowing owl due to the presence of suitable habitat on the project site.

MM BIO-2: Pre-construction Surveys and Avoidance of Western Burrowing Owl. A burrowing owl survey shall be conducted within 2 calendar days prior to ground disturbance, following the survey methods described in Condition 15 (Western Burrowing Owl) of the SCVHP, and the results of these surveys shall be sent to the Director of PBCE, or the Director's designee. If evidence of burrowing owl is detected during the pre-construction surveys, then CDFW shall be notified.

If the pre-construction surveys detect evidence of burrowing owls on-site, then the project applicant shall implement the following avoidance measures:

1. Avoid occupied nests within a 250-foot buffer during breeding season (February 1 through August 31, inclusive) or develop a monitoring plan approved by the CDFW that allows activity within 250-foot buffer.
2. Avoid occupied burrows during nonbreeding season (September 1 through January 31, inclusive) or meet requirements in Condition 15 of the SCVHP if allowing activity within a 250-foot buffer.

If evidence of burrowing owls is detected on-site, the applicant shall develop and submit a construction monitoring plan to the City's Director of PCBE, or the Director's designee, for review and approval. The construction monitoring plan shall include the following construction monitoring measures:

1. Establish 250-foot buffer zones around active nests.
2. Establish 250-foot buffer zones around occupied burrows during nonbreeding season if applicable.
3. Implement construction monitoring consistent with monitoring plan or requirements if activities occur within the buffer.
4. Construction or maintenance personnel must participate in avoidance training.

If required based on surveys, buffers established by a qualified Biologist in consultation with CDFW, shall be shown on plans.

Implementation of MM BIO-2 would reduce potential impacts to western burrowing owl to less than significant.

Impact BIO-3: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment, which would

constitute a significant impact under the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800.

MM BIO-3: Impacts to Nesting Birds. The proposed project shall implement the following measures to avoid impacts to nesting migratory birds:

- **Avoidance:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1 through August 31 (inclusive), as amended.
- **Nesting Bird Surveys:** If demolition and construction activities cannot be scheduled to occur between September 1 and January 31 (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 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as yellow warblers. During this survey, the Ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.
- **Buffer Zones:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the Ornithologist, in consultation with the 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. The no-disturbance buffer shall remain in place until the Biologist determines the nest is no longer active or the nesting season ends. If construction ceases for 2 days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.
- **Reporting:** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the Ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of PBCE or the Director's designee, prior to issuance of any tree removal, demolition, or grading permits, whichever occurs first.

Implementation of MM BIO-3 would reduce potential impacts to birds protected by the MBTA to less than significant.

E. CULTURAL AND TRIBAL CULTURAL RESOURCES.

Impact CUL-1: Construction activities associated with the proposed project could result in the disturbance of previously undocumented tribal cultural resources due to an informal resource in the immediate project vicinity, identified through Assembly Bill (AB) 52 consultation with the Tamien Nation, and the site's proximity to Coyote Creek.

MM CUL-1.1: Tribal Cultural Awareness Training. Prior to issuance of any demolition or grading permits, whichever occurs first, the project applicant shall be required to submit evidence that a Cultural Awareness Training has been provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission (NAHC) 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.

MM CUL-1.2: Monitoring. A qualified Native American Monitor, registered with the NAHC 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, in collaboration with a qualified Archeologist shall also be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, boring on-site, or major landscaping.

MM CUL-1.3: Evaluation. During ground-disturbing construction activities and prior to the issuance of any occupancy permits, the project applicant shall notify the Director of PBCE or the Director's designee of any finds during monitoring of any ground-disturbing activities. Any historic or prehistoric material identified in the project area during excavation activities shall be evaluated for eligibility for listing in the California Register of Historical Resources (CRHR) as determined by the California Office of Historic Preservation (OHP). Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand-augering, and hand-excavation. The techniques used for data recovery and treatment shall be determined by the project archaeologist in collaboration with a Native American representative registered with the NAHC 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. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center (NWIC) and NAHC Sacred Land File, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the City of San José Department of PBCE.

Implementation of MM CUL-1.1 through MM CUL-1.3 would reduce potential impacts to previously undocumented tribal cultural resources and would be reduced to less than significant.

F. **ENERGY** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

G. **GEOLOGY AND SOILS** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

H. **GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

I. **HAZARDS AND HAZARDOUS MATERIALS**.

Impact HAZ-1: Construction of the proposed project has the potential to expose the public and environment to hazardous materials (organochlorine pesticides and pesticide-based metals, arsenic, and lead) in excess of RWQCB environmental screening levels, due to past agricultural use of the site.

MM HAZ-1: Prior to issuance of any demolition or grading permits, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use. The Phase II shall include shallow soil sampling and analysis for organochlorine pesticides and pesticide-based metals, arsenic and lead to determine whether these chemicals are present above Regional Water Quality Control Board (RWQCB) environmental screening levels for construction worker safety and future occupants of the site. The results of the soil sampling and testing shall be provided to the Director of PBCE, or the Director's Designee, and the Environmental Compliance Officer in the City of San José's Environmental

Services Department.

If the Phase II results indicate soil concentrations above RWQCB environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control (DTSC), or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of PBCE or the Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department before issuance of the demolition or grading permit, whichever occurs first.

Implementation of MM HAZ-1 would reduce any residual chemicals and heavy metals related to the past agricultural use of the site below RWQCB environmental screening levels.

Impact HAZ-2: Construction of the proposed projects could result in disturbance of naturally occurring asbestos, a hazardous material, due to the presence of serpentine bedrock on-site.

MM HAZ-2: Prior to issuance of any demolition or grading permit, whichever occurs first, an Asbestos Dust Mitigation Plan (ADMP) shall be prepared and submitted to the BAAQMD for approval. The ADMP would include trackout prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for off-site transport, consistent with the California Air Resources Board (ARB) Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The BAAQMD-approved ADMP shall be submitted to the Director of PBCE or the Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department before issuance of the demolition or grading permit, whichever occurs first.

Implementation of MM HAZ-2 would reduce potential impacts related to disturbance of naturally occurring asbestos would be reduced to less than significant.

J. **HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

K. **LAND USE AND PLANNING** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

L. **MINERAL RESOURCES** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

M. **NOISE** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

N. **POPULATION AND HOUSING** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

O. **PUBLIC SERVICES** – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

P. **RECREATION** – The project would not have a significant impact on this resource. Therefore, no

mitigation is required.

Q. TRANSPORTATION.

Impact TRANS-1: VMT generated by the proposed project would exceed the City's VMT threshold of 14.37 per employee by 0.32.

MM TRANS-1.1: Traffic Calming Measures. Prior to issuance of certificate of occupancy, the project applicant shall shorten the northbound dual left-turn pocket and extend the raised median island on Hellyer Avenue at the Hellyer Avenue/Silver Creek Valley Road intersection. Public Works approved plans showing the required improvements shall be submitted to the Director of PBCE, or the Director's designee, for verification prior to the issuance of building permits.

MM TRANS-1.2: Commute Trip Reduction Marketing and Education. Prior to issuance of certificate of occupancy, the project applicant shall prepare a Marketing and Education Campaign Plan, to the satisfaction of the Director of PCBE in accordance with the Department of Public Works. The Marketing and Education Campaign Plan shall include strategies that would be implemented through a marketing campaign targeting all employees that would encourage the use of shared rides and active modes of transportation. Marketing strategies may include new employee orientation on alternative commute options, event promotions, and publications. The marketing materials shall provide information and encouragement to use transit services, shared ride modes (i.e., carpooling), and active modes to reduce drive-alone commute trips and, thus, Vehicle Miles traveled (VMT). It is assumed that 25 percent of the warehouse employees would participate in the commute trip reduction marketing and education program. However, an annual monitoring report must be prepared by a traffic engineer and submitted to the City's Department of Public Works demonstrating the project is within 10 percent of the Average Daily Traffic (ADT) cap of 20 AM peak-hour trips and 22 PM peak-hour trips. If the project is not in conformance with the trip cap, the project may add additional TDM measures to meet the trip cap and a follow up report is required within six months. If the project is still out of conformance, the City can assess penalties consistent with Council Policy 5-1.

Implementation of MM TRANS-1.1 and MM TRANS-1.2 would reduce VMT below the City threshold of 14.37 per employee.

R. TRIBAL CULTURAL RESOURCES – Refer to item E. Cultural and Tribal Cultural Resources above.

S. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

T. WILDFIRE – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

U. MANDATORY FINDINGS OF SIGNIFICANCE.

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in

the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Monday, July 25, 2022** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

July 1, 2022

Date

Deputy

Shannon Hill
Environmental Project Manager

Circulation Period: Tuesday, July 5, 2022 to Monday, July 25, 2022

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ACRONYMS AND ABBREVIATIONS

µg/m^3	micrograms per cubic meter
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACM	asbestos-containing material
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
ADMP	Asbestos Dust Mitigation Plan
AERMOD	American Meteorological Society/EPA Regulatory Model
AFY	acre-feet per year
Air Basin	San Francisco Bay Air Basin
ALUC	Airport Land Use Commission
APN	Assessor's Parcel Number
AQP	Air Quality Plan
ARB	California Air Resources Board
ATCM	Airborne Toxic Control Measures
ATI	Approved Trips Inventory
BAAQMD	Bay Area Air Quality Management District
BAHM	Bay Area Hydrology Model
BASMAA	Bay Area Stormwater Management Agencies Association
BERD	Built Environmental Research Directory
BMP	Best Management Practice
C&D	construction and demolition
CAAQS	California Ambient Air Quality Standards
CAL FIRE	California Department of Forestry and Fire Protection
Cal/EPA	California Environmental Protection Agency
CalEEMod	California Emissions Estimator Model
CalGEM	California Geologic Energy Management
CALGreen	California Green Buildings Standards Code
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CBC	California Building Standards Code
CCA	Community Choice Aggregation
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CH_4	methane
CHL	California Historic Landmarks
CLUP	Comprehensive Land Use Plan
CMP	Congestion Management Plan
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CNPSEI	California Native Plant Society Electronic Inventory
CO	carbon monoxide
CO_2	carbon dioxide
CPHI	California Points of Historical Interest
CPUC	California Public Utilities Commission
CRA	Cultural Resources Assessment
CREC	Controlled Recognized Environmental Condition
CRHR	California Register of Historical Resources
CRPR	California Rare Plant Rank
CWA	Clean Water Act
dB	decibel
dBA	A-weight decibel
DNL	Day-Night Level
DPM	diesel particulate matter
DTSC	California Department of Toxic Substances Control
EADP	Edenvale Area Development Policy
EIR	Environmental Impact Report
EMFAC	Emissions Factors mobile source emissions model
General Plan	Envision San José 2040 General Plan
EPA	United States Environmental Protection Agency
ESA	Environmental Site Assessment
EV	electric vehicle
FAA	Federal Aviation Administration
FAR	floor area ratio
FCS	FirstCarbon Solutions
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMMP	Farmland Mapping and Monitoring Program

FTA	Federal Transit Administration
GHG	greenhouse gas
GHGRS	Greenhouse Gas Reduction Strategy
GIS	Geographic Information System
GPA	General Plan Amendment
GPD	gallons per day
H_2S	hydrogen sulfide
HARP2	Hotspots Analysis and Reporting Program
HI	Hazard Index
HRA	Health Risk Assessment
HREC	Historic Recognized Environmental Condition
HRI	Historical Resources Inventory
HVAC	heating, ventilation, and air conditioning
ICES	Innovative and Creative Environmental Solutions
in/sec	inches per second
IP	Industrial Park
ISO	Independent System Operator
ITE	Institute of Transportation Engineers
kBTU	kilo-British Thermal Unit
kW	kilowatts
kWh	kilowatt-hour
LBP	lead-based paint
lbs	pounds
L_{dn}	day/night average sound level
LEED™	Leadership in Energy and Environmental Design
L_{eq}	equivalent continuous noise level
LEV	Low Emission Vehicle
LID	Low Impact Development
L_{max}	maximum sound level
LOS	Level of Service
LRA	Local Responsibility Area
LUST	Leaking Underground Storage Tank
MBTA	Migratory Bird Treaty Act
mgd	million gallons per day
MIR	Maximally Impacted Sensitive Receptor
MLD	Most Likely Descendant
MM	Mitigation Measure
MTC	Metropolitan Transportation Commission
MWh	megawatt-hours

N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NESHAP	National Emission Standards for Air Pollution
NFHL	National Flood Hazard Layer
NHTSA	National Highway Traffic Safety Administration
NO_2	nitrogen dioxide
NO_X	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NPPA	Native Plant Protection Act
NRHP	National Register of Historic Places
NWIC	Northwest Information Center
OEHHA	California Office of Environmental Health Hazard Assessment
OHP	California Office of Historic Preservation
OHWM	ordinary high water mark
OSHA	Occupational Safety and Health Administration
PBCE	Planning, Building, and Code Enforcement
PCB	polychlorinated biphenyl
PG&E	Pacific Gas and Electric Company
PM	particulate matter
PM_{10}	particulate matter, including dust, 10 micrometers or less in diameter
$PM_{2.5}$	particulate matter, including dust, 2.5 micrometers or less in diameter
ppm	parts per million
PPV	peak particle velocity
PRC	Public Resources Code
PRNS	Parks, Recreation, and Neighborhood Services
R&D	Research and Development
RAP	Removal Action Plan
RCP	reinforced concrete pipe
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Condition
RGP	Regional General Permit
rms	root mean square
ROG	reactive organic gases
RTP	Regional Transportation Plan
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCVHP	Santa Clara Valley Habitat Plan
SHPA	Serpentine Habitat Protection Area

SJCDSG	San José Citywide Design Standards and Guidelines
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJMWS	San José Municipal Water System
SJPD	San José Police Department
SMP	Site Management Plan
SO_2	sulfur trioxide
SO_X	sulfur oxides
SR	State Route
SRA	State Responsibility Zone
State Water Board	California State Water Resources Control Board
STC	Sound Transmission Class
TA	Transportation Analysis
TAC	toxic air contaminant
TCR	Tribal Cultural Resource
TDM	Transportation Demand Management
TIF	traffic impact fee
TRU	Transport Refrigeration Unit
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
UST	underground storage tank
UWMP	Urban Water Management Plan
Valley Water	Santa Clara Valley Water District
VdB	vibration in decibels
VMT	Vehicle Miles Traveled
VOC	volatile organic compound
vphpl	vehicle per hour per lane
VTA	Santa Clara Valley Transportation Authority
WSA	Water Supply Assessment
ZNC	zero net carbon

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SECTION 1: INTRODUCTION

1.1 - PURPOSE

In accordance with the California Environmental Quality Act (CEQA) of 1970, as amended (California Public Resources Code, Section 21000-21177) and pursuant to the State CEQA Guidelines (Title 14, California Code of Regulations [CRR], Chapter 3, Section 15063), the City of San José (City), acting in the capacity of the Lead Agency, is required to determine whether the proposed Piercy Road Industrial Warehouse Project (proposed project) would have significant environmental impacts. The environmental documentation, which is ultimately selected by the City in accordance with CEQA, is intended as an informational document undertaken to provide an environmental basis for subsequent discretionary actions for the proposed project.

The purpose of this Initial Study is to identify any potential environmental impacts from implementation of the proposed project in the City of San José, California. Pursuant to the CEQA Guidelines Section 15367, the City of San José is the Lead Agency for the preparation of this Initial Study. The City has discretionary authority over the proposed project.

InSite Property Group (project applicant) proposes to remove existing shrubs and ground cover at the site in order to construct a new light industrial building and truck distribution infrastructure. The proposed industrial building would be approximately 121,580 square feet, consisting of approximately 116,580 square feet of warehouse space and approximately 5,000 square feet of mezzanine office space. The proposed project requires discretionary approval by the City.

1.2 - PUBLIC REVIEW PERIOD

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

Shannon Hill, Planner III
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San José, CA 95113
Phone: 408.535.7872
Email: Shannon.hill@sanjoseca.gov

1.3 - CONSIDERATION OF THE INITIAL STUDY AND PROPOSED PROJECT

Following the conclusion of the public review period, the City will consider the adoption of the Initial Study for the proposed project at a regularly scheduled meeting. The City shall consider the Initial Study together with any comments received during the public review process. Upon adoption of the Initial Study, the City may proceed with project approval actions.

1.4 - DOCUMENT ORGANIZATION

Following this Section 1 Introduction, Section 2, Project Information provides project details such as project location, owner and applicant contact, land use and zoning information, Habitat Plan designations, and lists the required approvals and permits. Section 3, Project Description describes the characteristics of the proposed project, provides details of the proposed development and construction schedule, and includes additional land use and zoning information. Section 4, Environmental Setting, Checklist, and Impacts Discussion includes an environmental checklist, providing an overview of the potential impacts that may result from project implementation. Section 4 also provides a discussion and analysis that elaborates on the information contained in the environmental checklist along with justification for the responses provided in the environmental checklist.

SECTION 2: PROJECT INFORMATION

2.1 - PROJECT TITLE AND FILE NUMBER

Piercy Road Industrial Warehouse Project
City File Nos. H21-022 and ER21-082

2.2 - LEAD AGENCY CONTACT

Shannon Hill, Planner III
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, Tower 3rd Floor
San José, CA 95113
Phone: (408) 535-7872
Email: Shannon.hill@sanjoseca.gov

2.3 - PROJECT LOCATION

The approximately 14.26-acre project site is located in the Edenvale neighborhood in the southern portion of San José, approximately 0.66 miles east of US 101.

Project site address:
455 Piercy Road
San José, California 95138

2.4 - PROPERTY OWNER/PROJECT APPLICANT

Property Owner and Applicant:
Insite Property Group
19191 South Vermont Avenue, Suite 680
Torrance, CA 90502

Owner and Applicant Contact:
Brian Sorensen
(575) 936-0877
bsorensen@insitepg.com

2.5 - ASSESSOR'S PARCEL NUMBERS

APN: 678-93-030

2.6 - GENERAL PLAN DESIGNATION AND ZONING DISTRICT

General Plan Designation: Industrial Park (IP)
Zoning District: Industrial Park (IP)

2.7 - HABITAT PLAN DESIGNATION

The project site is within the Santa Clara Valley Habitat Plan (SCVHP) coverage area and is mapped with the following land cover types, fee zones, and survey areas:

- Land Cover Designation Types: Serpentine Bunchgrass Grassland
- Private Development Area 1: Private Development Covered
- Land Cover Fee Zones: Ranchlands and Natural Lands, Serpentine Fee Zone (potentially)
- Survey Areas: Bay Checkerspot Butterfly, Plant Survey Zone (Conditions 19 and 20 may apply)

The project site is located within a serpentine fee zone, a plant survey area, and a wildlife survey area for the Bay checkerspot butterfly. It is not located within a burrowing owl fee zone or a wetland fee zone. The project site is not located next to, or adjacent to, a designated reserve.

The project site is subject to the following Habitat Plan Condition: Urban-Reserve System Interface zones. In addition, the SCVHP Urban-Reserve System Interface Design Requirements may apply in this area (Condition 2).

2.8 - PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

Development of the proposed project would require the following discretionary permit approvals by the City of San José:

- Site Development Permit
- Grading Permit
- Public Street Improvement Permit
- Building and Occupancy Permits
- All other Public Works Clearances

SECTION 3: PROJECT DESCRIPTION

3.1 - EXISTING PROJECT SITE

Project Location

The approximately 14.26-acre project site includes one parcel (Assessor's Parcel Number [APN] 678-93-030) and is located at 455 Piercy Road in the Edenvale neighborhood in the southern portion of San José (see Figure 1 and Figure 2). The project site is situated within the New Edenvale Employment Area General Plan Planned Growth Area. It is located in the *San José East, California* United States Geological Survey (USGS) 7.5-minute Topographic Quadrangle Map.

U.S. Highway 101 (US-101) (El Camino Real) is approximately 0.66 mile west of the project site and Interstate 280 (I-280) and I-680 are approximately 6.5 miles to the northwest.

Land Use and Surrounding Uses

The site is within a larger Industrial Park designated area.[1] This land use designation surrounds the site on the southeast, southwest, and northwest. A small area designated Light Industrial borders the site on the northwest. The Open Hillside land use designation extends along the northeast site boundary (see Figure 3). Similarly, the project site is zoned Industrial Park and is located within a larger area also zoned for Industrial Park. The area northwest of the project site is zoned Light Industrial. The area northeast of the site is within unincorporated Santa Clara County but is within the City's Sphere of Influence. According to the Santa Clara County Zoning Map, this area is zoned Hillside (see Figure 4). Since the area northwest of the project is within the City's Sphere of Influence, it is included in the City's Envision San José 2040 General Plan (General Plan) and has a land use designation of Open Hillside.

In general, the project site's surrounding area mainly consists of a mix of industrial and commercial uses, with some vacant land and the hillside. There are also a few residences scattered throughout this predominantly industrial area.

Specifically, the property is bound to the southeast by Piercy Road, vacant land, commercial uses, a batting cage facility, and a church; to the southwest by vacant land, a residence, and Hellyer Avenue; to the northwest by Fontanoso Road, a credit union office, vacant land, and Silver Creek Valley Road; and to the northeast by the referenced hillside. In addition, a Santa Clara Valley Water District (Valley Water) easement and canal are located at the northeast perimeter of the property, and a Pacific Gas and Electric Company (PG&E) easement is located along the southwest perimeter.

Existing Conditions On-Site

The property is currently vacant. Land cover types observed on-site include Graded–Barren and Fallow/Ruderal, Non-native Annual Grassland, and Serpentine Outcrops and Serpentine Chaparral.

[1] City of San José. 2011. Envision San José 2040 General Plan Land Use Map. Website: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/envision-san-jos-2040-general-plan/land-use-map. Accessed September 2, 2021.

Several ornamental trees are located along the project site boundary, and the canal extends through the eastern hillside for approximately 672 linear feet within the project site. Based on the Geotechnical Investigation prepared for the proposed project (included in Appendix D), the Piercy Fault zone, a 70-foot-wide fault zone, traverses the middle of the site.[2] This fault is further discussed in Section 4.7, Geology and Soils.

The project site appears to have been partially graded and utilities extend into it. The majority of the project site is relatively flat, except for the northeast area where there is a northwest-southeast trending ridge. Serpentine bedrock is exposed in places at the base of the hill, adjacent to the proposed project site along the northeastern perimeter. Utility boxes for PG&E, storm drain fixtures, PVC standpipes that presumably contain other utilities, four fire hydrants, and fire suppression fixtures are also located on the project site. Most of these would remain on-site; however, existing underground utilities would be grouted and abandoned. Three power poles are located near the central portion of the site. The project site appears to have been used as an orchard prior to 1940. Since that time, it has been vacant.

3.2 - PROPOSED DEVELOPMENT

The proposed project would include one new light industrial building and truck distribution infrastructure. The proposed industrial building would be approximately 121,580 square feet, consisting of approximately 116,580 square feet of warehouse space and approximately 5,000 square feet of mezzanine office space. The maximum height of the proposed structure would be 48 feet. Operations would include dry storage only, with no option for the conversion to cold storage in the future. Of the total 14.26 acres of the project site, the proposed development area (impact area) would occupy approximately 7.6 acres.

Following the recommendations in the Geotechnical Investigation, and as part of project design, a building exclusion zone would be established along the surface trace of the Piercy Fault. In addition, a 35-foot setback along the northeast boundary of this fault and a 25-foot setback along its southwestern edge would be implemented.[3]

The anticipated use involves high-cube storage and distribution with ancillary office and may include interior light manufacturing operations as permitted by the zoning code. The proposed project would include 17 loading docks, 132 auto parking stalls (including five accessible stalls and 11 stalls for clean air vehicles), 42 trailer parking stalls, three motorcycle parking spaces, and eight bicycle parking spaces. Site ingress and egress would be at the southwestern area of the project site, via Piercy Road. The proposed site plan is shown in Figures 5 and 6. The Preliminary Utility Plan, Preliminary Stormwater Control Plan, and Preliminary Grading/Drainage Plan are shown on Figure 7a, Figure 7b, and Figure 7c respectively. The proposed project would include three bioretention areas, totaling approximately 10,778 square feet, which are shown on these Figures as well.

The proposed building would be constructed of metal panels, painted tilt-up concrete panels, satin-finish aluminum/steel composite panels with glazing, and glass clerestory windows. Lighting would be installed on 25-foot-tall poles around the perimeter of the building and parking areas. Fencing

[2] Cornerstone Earth Group. 2021. Geologic Hazard Evaluation and Design-Level Geotechnical Investigation. March 22.
[3] Ibid.

around the proposed project would consist of an 8-foot-high industrial steel fence. Security cameras would be installed for full site coverage.

Five trees would be removed from the project site. Numerous trees, shrubs, and ground cover plants would be planted along the project site perimeter in addition to three bioretention basins: one in the northwestern portion of the site, and two in the southeastern portion, in accordance with the City approved landscape plan.

To provide slope protection, the proposed project would include a 6-foot-tall debris flow wall that would line the entire parking area west of the proposed building and would line the main bioretention basin located at the northeastern portion of the site (Figure 5).

While no end users have been identified, the proposed building is programmed and designed to attract users such as logistics, warehouse/distribution, and light or advanced manufacturing. The proposed project is expected to employ approximately 40–80 full-time employees. Hours of operation for both administrative/business functions *and* logistics/manufacturing activities are expected to occur from 7:00 a.m. to 7:00 p.m., 7 days per week.

Outdoor activity at the property would typically involve the arrival and departure of trucks and employees. Loading operations would involve trucks pulling up and parking at the loading dock roll-up doors. Unloading and re-loading of materials and product would be done inside the building. Storage is provided inside the warehouse space and materials and products would not be stored outdoors.

It is anticipated that 10–15 container parking spaces would likely be occupied at any one time which would result in up to 30 daily one-way truck trips (15 round-trip trips). It is estimated that about one-third of the project trips originating from the west via Silver Creek Valley Road would utilize Hellyer Avenue to access the site and about two-thirds would utilize Piercy Road to access the site since Piercy Road provides a slightly more direct route into the site. The anticipated port of product origin for truck trips would be the Port of Oakland, approximately 49.2 miles from the project site.

Operations would include dry storage only, with no option for the conversion to cold storage in the future.

3.3 - CONSTRUCTION DETAILS

Construction of the proposed project is anticipated to last from April 2022 to February 2023 , approximately 10 months. Construction activities are expected to take place Monday through Friday and to occur in one phase, beginning with site preparation, followed by grading, building construction, paving, and architectural coating. The construction staging area would be located within the proposed truck parking area. Construction workers would park on-site at the southern project site boundary. Approximately 19,790 cubic yards of material would be cut, and approximately 17,410 cubic yards of fill material would be used, for a net export of 2,380 cubic yards of cut material. The project site is currently vacant, so no demolition activities are needed. (Existing underground utilities would be grouted and abandoned.)

3.4 - ENVISION SAN JOSÉ 2040 GENERAL PLAN AND ZONING DESIGNATION

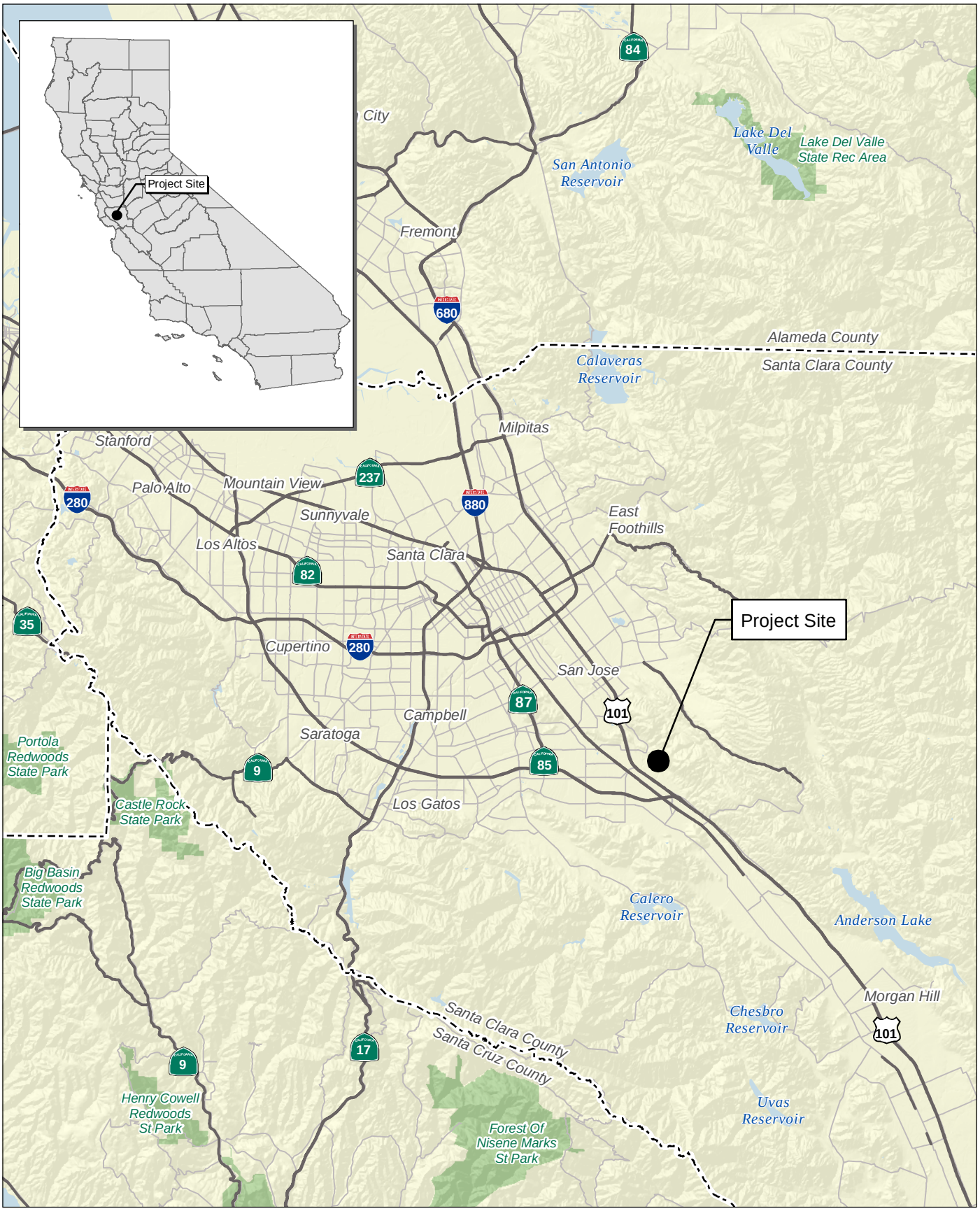
The Envision San José 2040 General Plan (General Plan)[4] designates the project site as Industrial Park (IP). This designation is intended for a variety of industrial uses such as research and development, manufacturing, assembly, testing, and offices. Under this designation, uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls.

The City's zoning classifies the project site as Industrial Park (IP) as well. Allowable uses and limitations under this zoning designation are similar to those describe in the General Plan.

The project site is located within the New Edenvale Employment Area General Plan Planned Growth Area. According to the General Plan, significant job growth is planned through intensification of the City's Employment Land Areas, including Edenvale. The City anticipates accommodating a wide variety of industry types and development forms, including high rise and mid-rise office or research and development uses, heavy and light industrial uses, and supporting commercial uses to respond to the projected demand for each type of industrial land.

With one exception (the Diridon Station Area Plan area), the General Plan does not support conversion of industrial lands to residential use, nor does it include housing growth capacity for these areas.

[4] City of San José. 2018. Envision San José General Plan 2040. Website: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/envision-san-jos-2040-general-plan. Accessed June 16, 2021.



Source: Census 2000 Data, The California Spatial Information Library (CaSIL).

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5 2.5 0 5 Miles

Figure 1
Regional Location Map

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Source: ESRI Aerial Imagery. RGA, 07/27/2021.

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1,000 500 0 1,000 Feet

Figure 2
Local Vicinity Map

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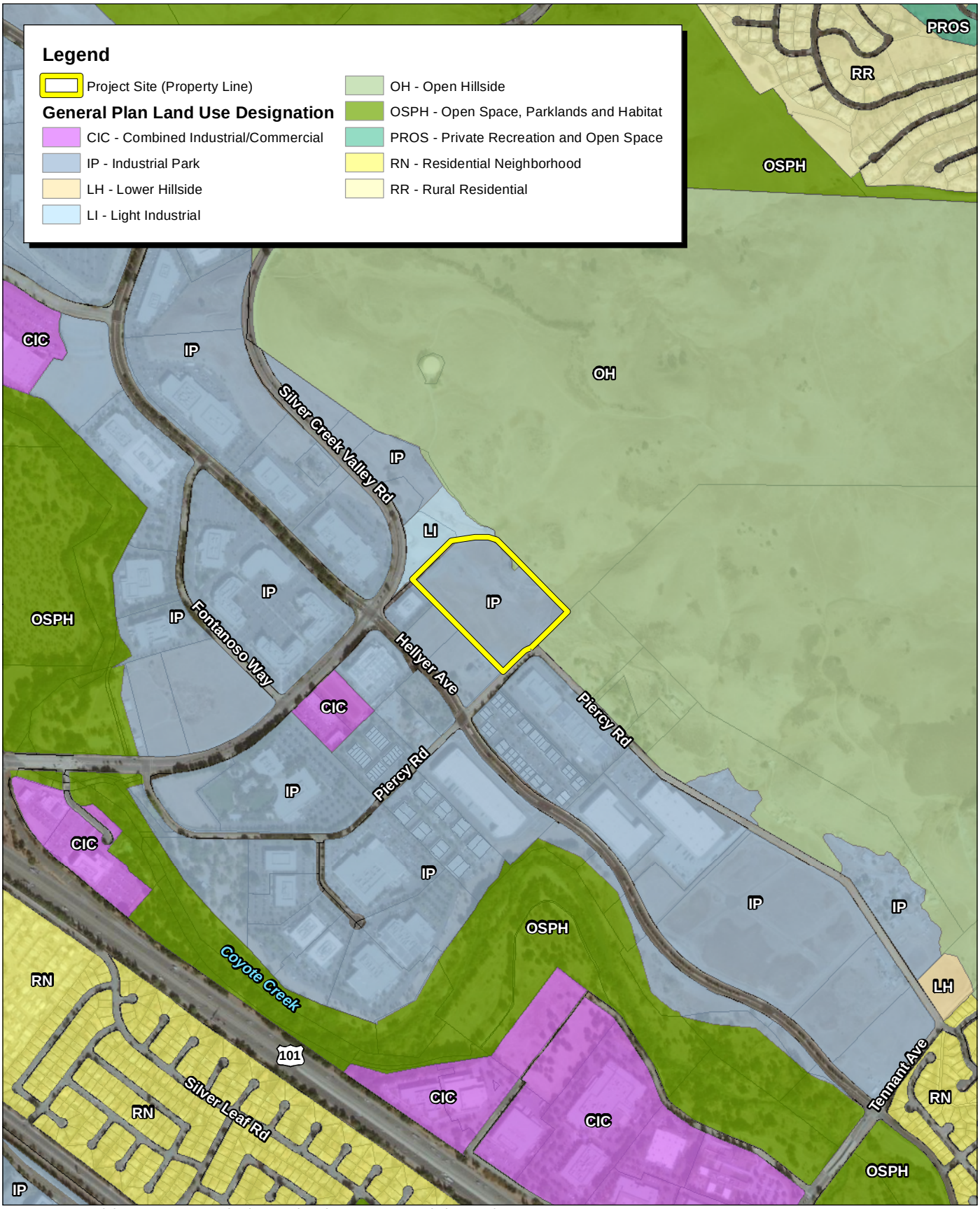

Source: ESRI Aerial Imagery. RGA, 07/27/2021. City of San Jose General Plan Land Use.

FIRSTCARBON SOLUTIONS™

1,000 500 0 1,000 Feet

Figure 3
General Plan Land Use Designation

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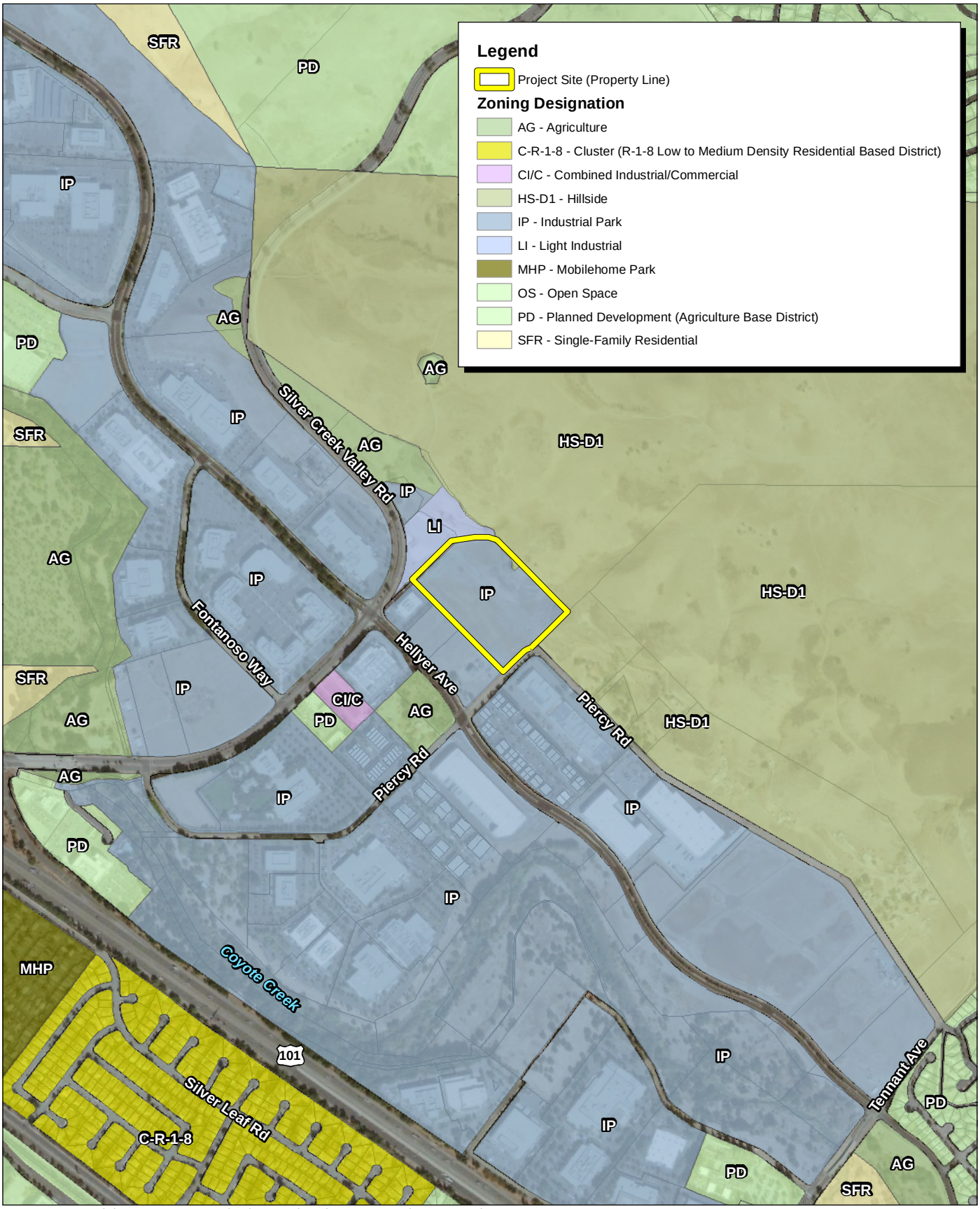

Source: ESRI Aerial Imagery. RGA, 07/27/2021. City of San Jose Zoning. Santa Clara County.

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1,000 500 0 1,000 Feet

Figure 4
Zoning Designation

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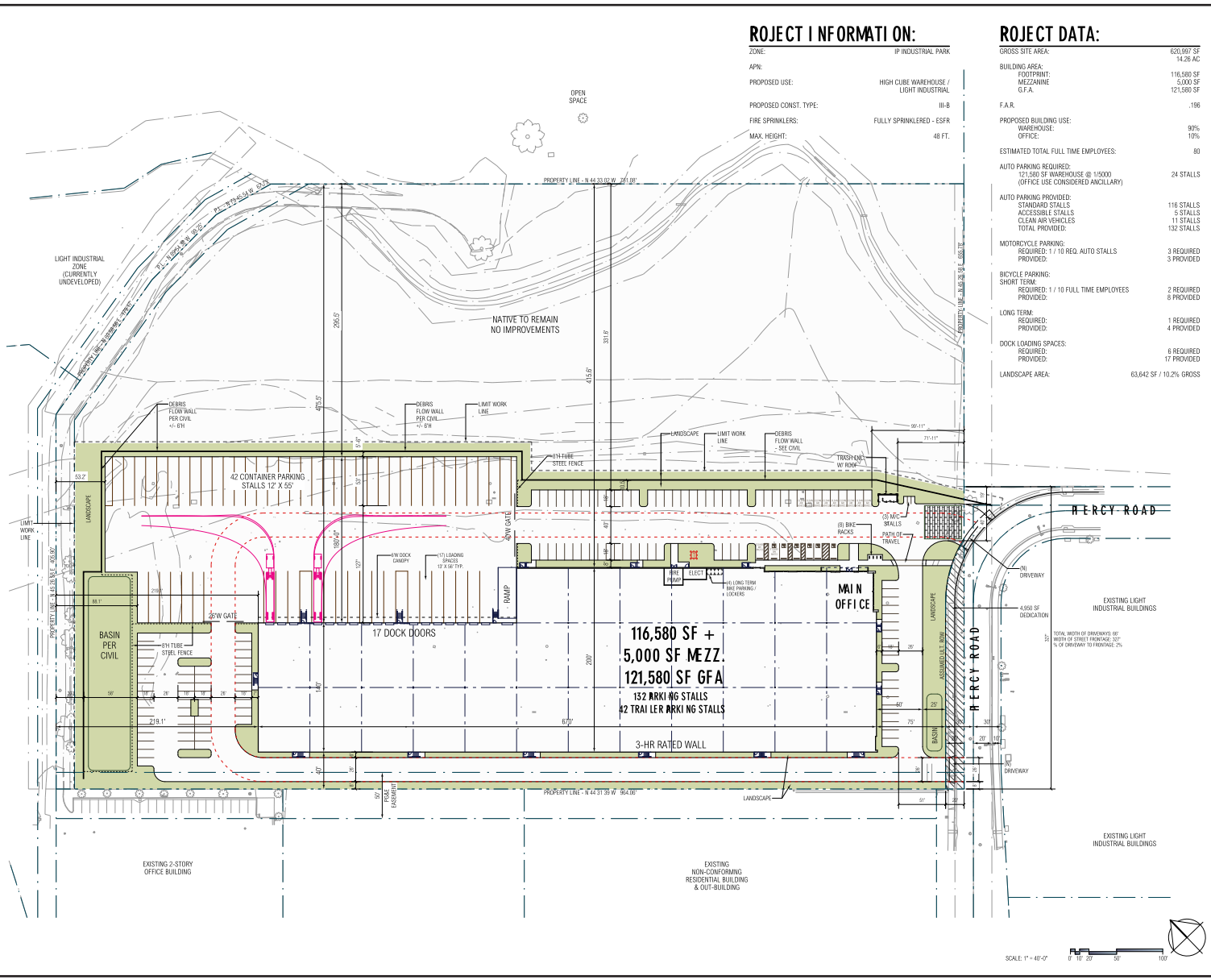

Source: RGA Office of Architectural Design, 7/27/21.

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Figure 5
Site Plan

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Source: ESRI Aerial Imagery. RGA, 07/27/2021.

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230 115 0 230
Feet

Figure 6
Project Off-site Roadway and Frontage Improvements

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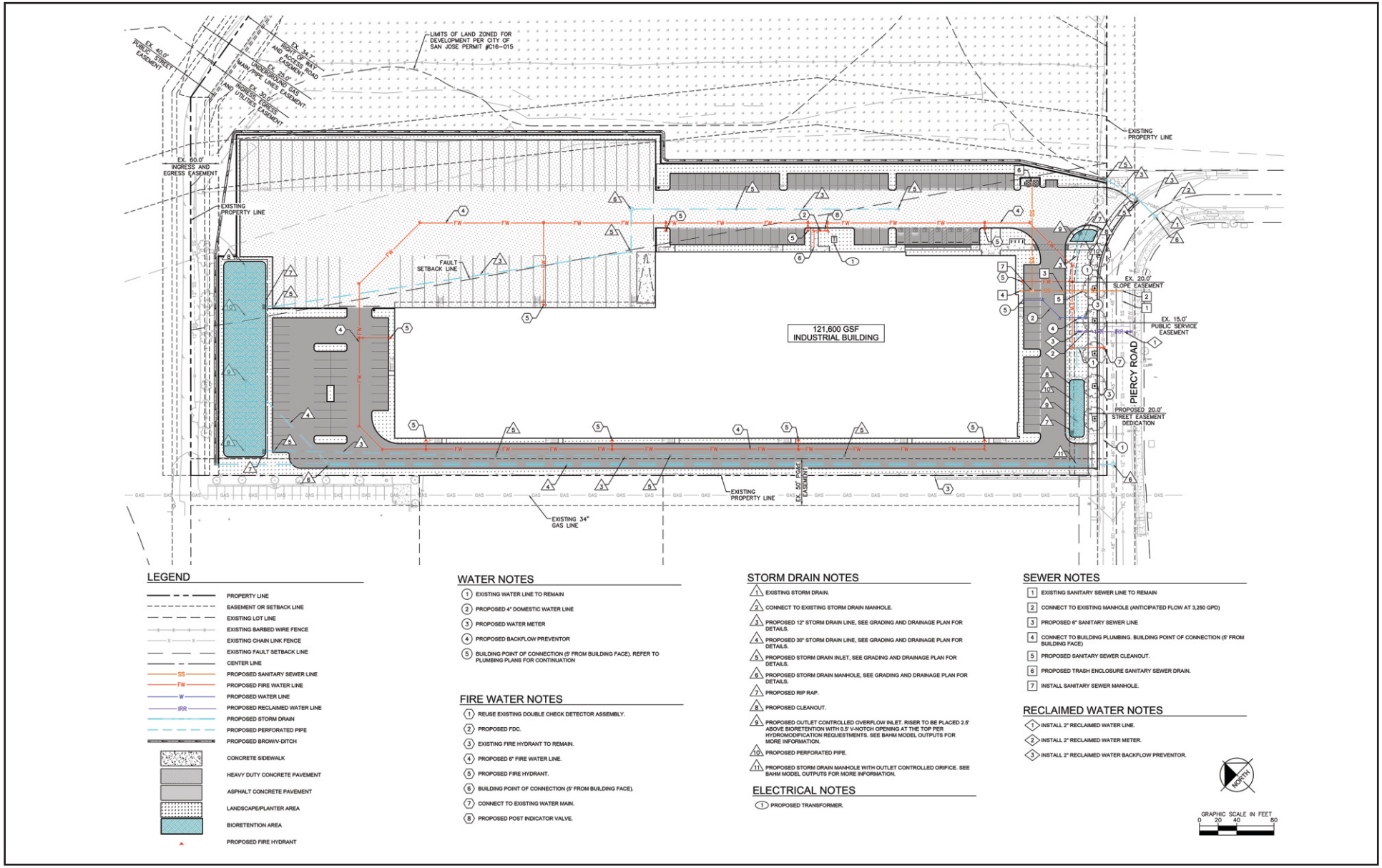

Source: Kimley-Horn, 08/12/2021.

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Figure 7a
Preliminary Utility Plan

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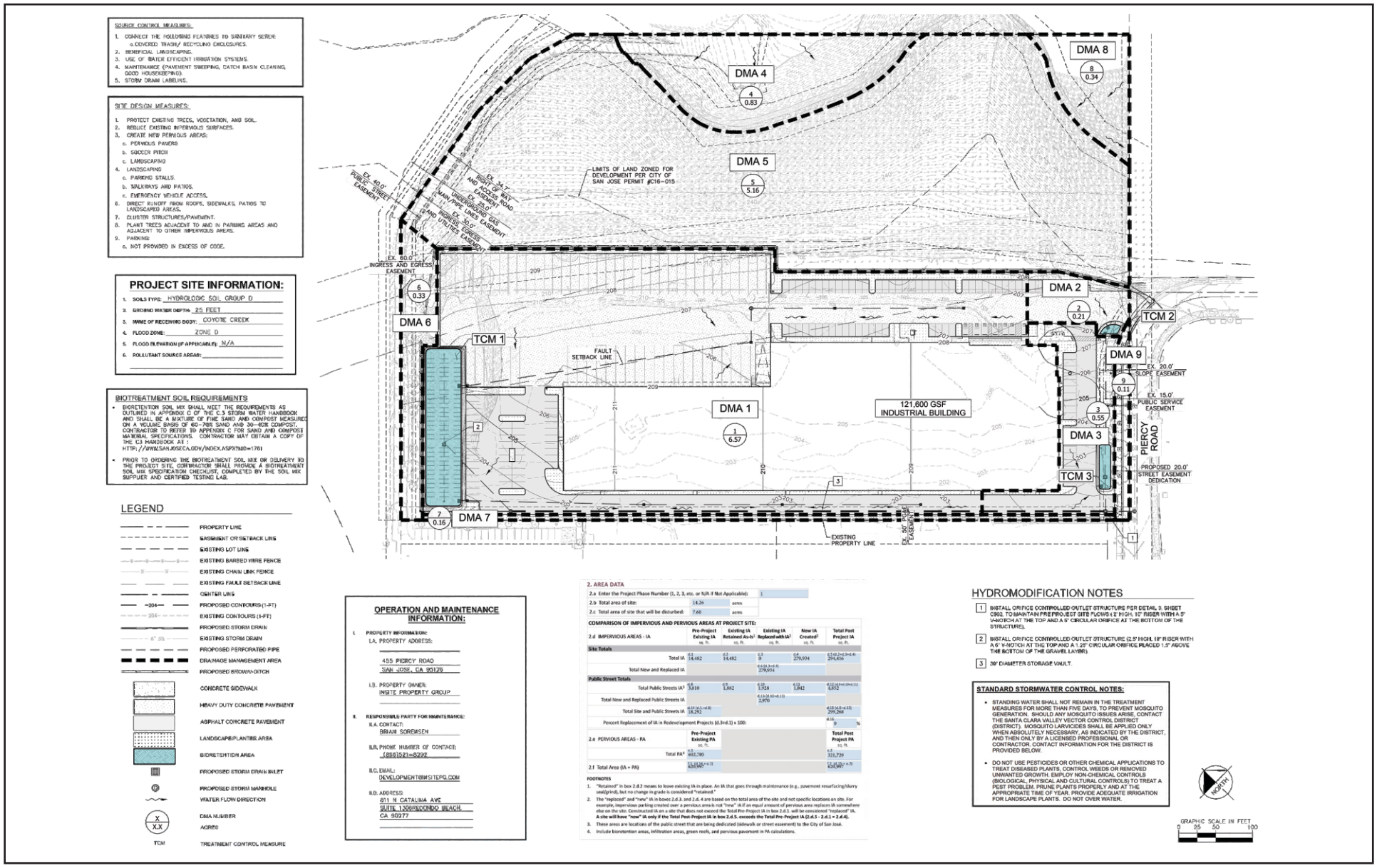

Source: Kimley-Horn, 08/12/2021.

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Figure 7b
Preliminary Stormwater Control Plan

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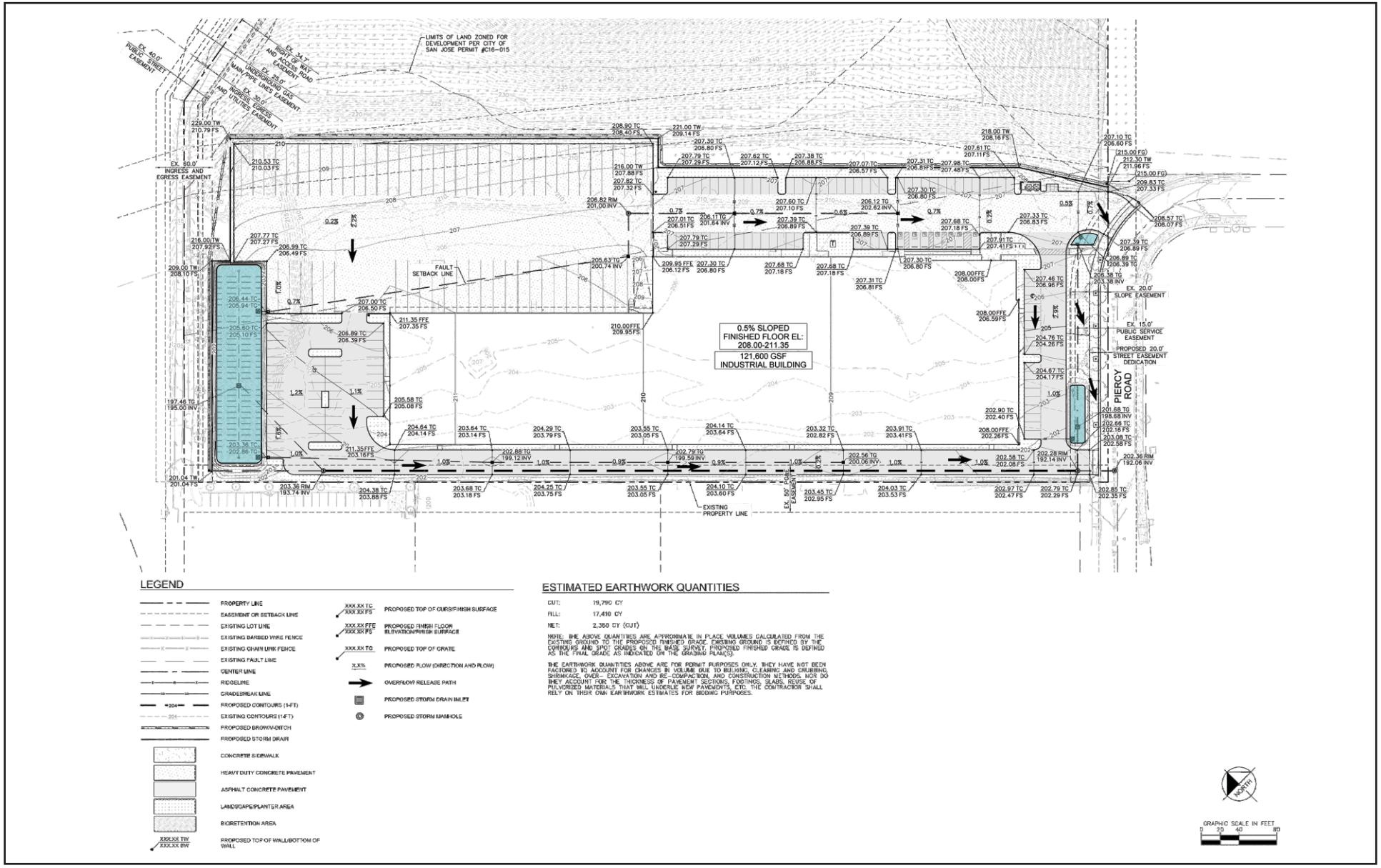

Source: Kimley-Horn, 08/12/2021.

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Figure 7c
Preliminary Grading and Drainage Plan

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SECTION 4: SETTING, ENVIRONMENTAL CHECKLIST, AND IMPACT ANALYSIS

This section describes the existing environmental conditions in and near the project area and analyzes environmental impacts associated with the proposed project. The environmental checklist, as recommended in the CEQA Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation Measures (MMs) are identified for all potentially significant project impacts. "Mitigation Measures" are measures that minimize, avoid, or eliminate a significant impact (CEQA Guidelines § 15370).

Note to the Reader: In a December 2015 opinion (*California Building Industry Association [CBIA] v. BAAQMD, 62 Cal. 4th 369* (No. S 213478)), the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment and not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

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

Therefore, although not required by CEQA, this chapter will also discuss "planning considerations" that relate to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances. This additional discussion is provided for informational purposes only.

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4.1 - AESTHETICS

4.1.1 - Environmental Setting

The property is currently vacant. Land cover types observed on-site include Graded–Barren and Fallow/Ruderal, Non-native Annual Grassland, and Serpentine Outcrops and Serpentine Chaparral. Several ornamental trees are located along the project site boundary, and a canal extends through the eastern hillside for approximately 672 linear feet within the project site.

The project site appears to have been partially graded and had utilities installed. Much of the property is relatively flat, except for the northeast area where there is a northwest-southeast trending ridge. Serpentine bedrock is exposed in places at the base of the hill along the northeastern site perimeter. A previous construction staging area is situated at the northwestern portion of the site. Three power poles are visible near the central portion of the site. The project site appears to have been used as an orchard prior to 1940. Since that time, it has been vacant and undeveloped.

Site photographs are provided in Figures 8a through 8d of this Initial Study.

Applicable Plans, Policies, and Regulations

California Scenic Highway Program

The State Scenic Highway Program is under the jurisdiction of the California Department of Transportation (Caltrans).[5] The program intends to protect and enhance the natural scenic beauty of California highways and adjacent corridors. The State laws governing the Scenic Highway Program are in the Streets and Highways Code, Sections 260 through 284. The nearest route eligible for the State Scenic Highway Program is I-280, which is approximately 9.6 miles northwest of the site. The nearest officially State-designated Scenic Highway is State Route (SR) 9 approximately 11 miles west of the site.

City of San José City Council Policy – Outdoor Lighting on Private Developments

The City of San José Council Policy Manual includes Policy 4-3, Outdoor Lighting on Private Developments, updated in 2000, to promote energy efficient outdoor lighting on private development in the City. This policy is to provide adequate light for nighttime activities while benefiting the enjoyment of night sky and continued operation of the Lick Observatory by reducing light pollution and sky glow.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to aesthetic resources and are applicable to the proposed project.

[5] State of California. 1969. Streets and Highways Code, Sections 260-284: State Scenic Highways. Website: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=SHC&division=1.&title=&part=&chapter=2.&article=2.5. Accessed September 24, 2021.

Envision San José 2040 General Plan Relevant Aesthetic Policies

Policies	Description
Policy CD-1.1	Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.
Policy CD-1.7	Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.
Policy CD-1.8	Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.
Policy CD-1.11	To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience.
Policy CD-1.12	Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground-level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.
Policy CD-1.13	Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.
Policy CD-1.17	Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.
Policy CD-1.18	Encourage the placement of loading docks and other utility uses within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity.
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.

Envision San José 2040 General Plan Relevant Aesthetic Policies

Policies	Description
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.

4.1.2 - Environmental Checklist and Impact Discussion

Except as provided in Public Resources Code Section 21099, would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a State Scenic Highway?	☐	☐	☒	☐
3. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	☒	☐
4. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Impact Discussion

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

Less than significant impact. According to Chapter 4, Quality of Life, of the General Plan, scenic resources within the City of San José include the broad sweep of the Santa Clara Valley, the hills and mountains which frame the valley floor, the Baylands, and the urban skyline, particularly high rise development. Scenic corridors that afford aesthetic views have been designated to help preserve thoroughfares that provide vistas of City's scenic resources. Additionally, the General Plan identifies gateways, urban corridors, and rural scenic corridors as important scenic resources. Gateways announce to a visitor or resident that they are entering the City or a unique neighborhood. Urban Corridors designated in the General Plan are all State and Interstate Highways within the City's

Sphere of Influence. Together, Gateways and Urban Corridors contribute greatly to the overall image of the City and the image of its individual communities.

The City's Sphere of Influence also contains a number of Rural Scenic Corridors.[6] The General Plan has several policies that are intended to preserve and enhance these attractive natural and man-made vistas. Of the several Rural Scenic Corridors identified in the General Plan Scenic Corridors Diagram, Silver Creek Valley Road is identified as the Silver Creek Valley Rural Scenic Corridor, which originates adjacent to the northwestern corner of the project site. The proposed project is consistent with General Plan and zonings designations, and the project's footprint and appearance are consistent with the industrial character of adjacent uses that are already established in the vicinity. Furthermore, the proposed project's footprint is not located on the hillside but rather remains confined to the industrial area in the immediate area. In addition, buffering and landscaping on-site would reduce its visual effects. Based on these considerations, impacts to scenic resources would be less than significant.

The Santa Cruz Mountains is a scenic vista in the project area. Therefore, obstruction of views of the Santa Cruz Mountains from public vantage points, or diminishing the views from a designated Gateway into the City, rural scenic corridor, or urban corridors, would have a potentially adverse effect on a scenic vista.

As depicted in Figures 8a through 8d of this Initial Study, the project site provides several views of the surrounding Santa Cruz Mountains, specifically in Figure 8b and in photograph 8 of Figure 8d. The Santa Cruz Mountains are visible from the northern portion of the project site, facing south and southwest. The previous construction staging area and the northwest-southeast trending ridge is depicted in Figure 8b. Figures 8b and 8c show the various vegetation and land cover throughout the project site.

Existing public views of the Santa Cruz Mountains are partially obstructed by trees and intervening development within the project vicinity, south of the project site. Development of the proposed project would not obstruct public views due to the site's location north of the public vantage points of the Santa Cruz Mountains. The views available on-site are mostly provided from the hillside on the northern portion of the project site, facing south and southwest, which is not a public vantage point. In addition, given the height of the proposed building (48 feet), which is consistent with the zoning requirements, and the heights of buildings in the project site's vicinity (mix of 1- and 2-stories), the proposed project would be consistent with the current pattern of development in the project area. Thus, the proposed project would not significantly obstruct existing public views, and impacts are concluded to be less than significant.

The project site does offer views of low-lying hills, which are directly north of the project site. The hills are visible from Hellyer Avenue, Piercy Road, and Silver Creek Valley Road, which are all publicly accessible roadways. In addition, Silver Creek Valley Road in the vicinity of the project site is designated as a Rural Scenic Corridor in the General Plan. Travelers on these roadways are afforded views of these low-lying hills. The proposed project would result in partial obstruction of these views

[6] City of San José Department of Planning, Building, and Code Enforcement. 2016. Envision San José 2040 General Plan, Scenic Corridors Diagram. June 6. Website: https://www.sanjoseca.gov/home/showpublisheddocument/22565/636688980487230000. Accessed February 9, 2022.

from Piercy Road and Hellyer Avenue. Viewer response and sensitivity vary depending on viewer attitudes and expectations. Viewer sensitivity is distinguished among project viewers in identified scenic corridors and from publicly accessible recreational and plaza areas. For example, recreational areas and scenic corridors are considered to have relatively high sensitivity. Drivers along these roadways would have a low sensitivity because of the typical speed of travel (30-45 miles per hour) along these roadways. In addition, pursuant to the IP Zoning District, the maximum permitted height for the proposed buildings would be 50 feet and the proposed height of 48 feet is in line with this regulation. The main hillside sightline would be maintained following construction of the proposed project. The proposed project's footprint and appearance are consistent with the industrial character of adjacent uses that are already established in the vicinity. Furthermore, the proposed project's footprint is not located on the hillside but rather remains confined to the industrial area in the foothill. Landscaping along the project site boundary would provide a buffer for views of the proposed project for motorists traveling along the Silver Creek Valley Road. Based on these considerations, impacts to scenic resources are concluded to be less than significant.

There is no recreational access to the low-lying hills in the vicinity of the project site.[7] Thus, the proposed project would not obstruct any public views from these hills. The closest public trail is the Silver Creek Valley Trail, which follows the Silver Creek Valley Road northwest of the site. However, because of intervening development and that the Silver Creek Valley Trail is at a higher elevation, the proposed project would not obstruct any public views of the travelers on the Silver Creek Valley Trail.

There is no designated Gateway near the project site. According to the General Plan Scenic Corridors Diagram, the project site is located over one mile northwest of the nearest designated Gateway. This condition precludes the possibility that the proposed project would impact views from these designated gateways or rural, scenic corridors.

The proposed project would not result in significant impact to scenic views because of the low sensitivity of the viewers, views that are currently partially obstructed, proposed landscape buffering, and the proposed building height being consistent with adjacent industrial development and the zoning requirements. In the project vicinity, there is a mix of building heights that range from 1- to 2-stories and there are two buildings located approximately 0.2 mile east of the project site with similar building heights to the proposed project. Because of this, the proposed project would be consistent with the current pattern of development in the project area.

As such, development of the site would not have a significant impact on scenic vistas and impacts would be less than significant.

[7] Santa Clara County Parks. 2015. Santa Clara County Existing and Proposed Regional Trail Connections. Website: https://sccparks.maps.arcgis.com/apps/PanelsLegend/index.html?appid=12160dc4b49348c395c46fa1ad20d795. Accessed December 30, 2021.

2) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State Scenic Highway?

Less than significant impact. The nearest route eligible for the State Scenic Highway Program is I-280, which is approximately 9.6 miles northwest of the site.[8] The nearest officially State-designated Scenic Highway is SR-9 approximately 11 miles west of the site. Moreover, according to the General Plan Scenic Corridors Diagram, the project site is located over a mile northwest of the nearest designated Gateway, and intervening development and vegetation obscures the project site from the designated Gateway. Furthermore, the proposed project is set back from the hillside generally north of the project site and therefore would not damage the serpentine rock outcroppings on the project site. Therefore, the proposed project would not damage scenic resources, such as rock outcroppings or historic buildings within a State Scenic Highway, and impacts would be less than significant.

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

Less than significant impact. The proposed project is in an increasingly urbanized area; therefore, impacts to scenic quality are analyzed in terms of compatibility with applicable zoning and other regulations governing scenic quality. Although there are a few residences, a private recreational facility, and a church in the surrounding area, the project site is within a predominately Industrial Park designated area. This land use designation surrounds the site on the southeast, southwest, and northwest. A small area designated Light Industrial borders the site on the northwest. Pursuant to the Zoning Code, the maximum height for the project is 50 feet (similar to other industrial buildings in the area), and the proposed buildings would not exceed this height. This height would also be consistent and thus compatible with adjacent existing industrial and commercial uses to the west, south, and east. As previously mentioned, surrounding the project vicinity there is a mix of building heights that range from 1- to 2-stories and there are two buildings located approximately 0.2 mile east of the project site with similar building heights to the proposed project. Because of this, the proposed project would be consistent with the current pattern of the project vicinity. The City of San José Municipal Code[9] (Zoning Code) Title 20, Chapter 20.50, Part 3, Section 200, includes other development standards to assist in ensuring scenic quality such as minimum lot area, minimum setbacks, and minimum street frontage (see Table 20-120 of the Zoning Code), and the City would confirm consistency with these requirements as part of the development review process.

The General Plan contains design guidelines, policies, and development standards that include measures to help ensure quality design. These standards, policies, and guidelines address placement and appearance of buildings (Policies CD-1.1 CD-1.12, CD-1.13, CD-1.17, CD-1.18, CD-1.19), pedestrian amenities and street presence (Policies CD-1.7, CD-1.8, CD-1.11, CD-1.17, CD-1.18, CD-1.19), building frontage and building footprints (Policies CD-1.11, CD-1.12) landscape design (Policies CD-1.23 and CD-1.24), and fencing and screening (Policies CD-1.17, CD-1.18, and CD-1.19). The

[8] California Department of Transportation (Caltrans). 2021. California State Scenic Highway System Map. Website: https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa. Accessed September 16, 2021.

[9] Code of Ordinance. 2021. San José Municipal Code. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances. Accessed June 16, 2021.

proposed project would be required to adhere to these goal, policies, and development standards, and the City would confirm consistency with these requirements as part of the development review process.

As discussed in the General Plan, the IP designation is for a "wide variety of industrial users, such as research and development, manufacturing, assembly, testing and offices." Part of the surrounding area is characterized by an industrial environment and the proposed project would implement a warehouse use, which is a use for this site considered in the General Plan.[10] As shown in Figure 9, the proposed building would be constructed from painted concrete, aluminum, and aluminum composite metal panels. The style and design elements are consistent with design elements in the nearby buildings. As such, the building architecture and materials would be compatible with surrounding uses, including other industrial and commercial building facades.

In conclusion, the proposed development would occur on a site that is mostly surrounded by urban uses, including industrial and commercial land uses. Figure 10 shows the conceptual rendering of the proposed project. The proposed building incorporates architectural elements and themes from the surrounding buildings and creates a building scale that is similar to the surrounding buildings. As such, the project proposes to construct a building that is compatible in scale, massing, design, and intensity with the existing surrounding development. The planting of trees and other landscaping on-site would provide a softening visual element. Therefore, impacts related to consistency with applicable zoning and scenic quality regulations and visual quality and character would be less than significant.

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

Less than significant impact. The project site is currently vacant. With the proposed development, the proposed project would increase the amount of light and glare compared to existing conditions. The new sources of light would originate from interior and exterior lighting of the building and employees' vehicles and trucks entering and exiting the site.

To reduce potential impacts related to glare and light trespass, the proposed project would be required to conform to City Council Policy 4-3: Outdoor Lighting on Private Developments, pertaining to how lights are directed and shielded and the hours they should be used. In addition, the proposed project would comply with Zoning Code Section 20.40.530, which states that light fixture heights should not exceed eight feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. The nearest residence is approximately 65 feet southwest of the project site. The light fixtures used on the site would be wall-mounted at 25 feet or pole-mounted at 25 feet . There would also be trees along with border of the project footprint to further shield the project lighting from surrounding uses. The proposed project would be required to adhere to all applicable development standards and design guidelines provided in the General Plan and Zoning Code which are intended to reduce daytime glare and nighttime lighting. The City would confirm consistency with these requirements as part of the development review process.

[10] City of San José. 2021. San José, California – Code of Ordinances. Section 20.50.010 Industrial zoning districts. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.50INZODI_PT1GE_20.50.010INZODI. Accessed August 23, 2021.

Furthermore, project landscaping would be included along all project site boundaries and throughout the site. Landscaping would further reduce light spillage off-site and help to block glare to nearby uses to the extent feasible. Thus, it is concluded that the proposed project would not create a new source of light and glare that would substantially affect day or nighttime views in an area. Impacts would be less than significant.

Mitigation Measures

None have been identified.

City Standard Permit Conditions

None have been identified.

4.1.3 - Conclusion

Impacts related to aesthetics would be less than significant.

Photograph 1: View of project site from above; facing northwest towards Silver Creek Valley Road.

Photograph 2: View of northern portion of project site from above; facing northeast.

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Figure 8a
Existing Conditions Site Photographs

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Photograph 3: View from northern corner of project site (from hillside); facing southwest.

Photograph 4: View from northern corner of project site (from hillside); facing south.

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Figure 8b
Existing Conditions Site Photographs

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Photograph 5: View of project site from northern portion of site; facing southeast.

Photograph 6: View from center of project site; facing north.

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Figure 8c
Existing Conditions Site Photographs

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Photograph 7: View from northern corner of project site; facing southeast.

Photograph 8: View from southern corner of project site (from hillside); facing west.

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Figure 8d
Existing Conditions Site Photographs

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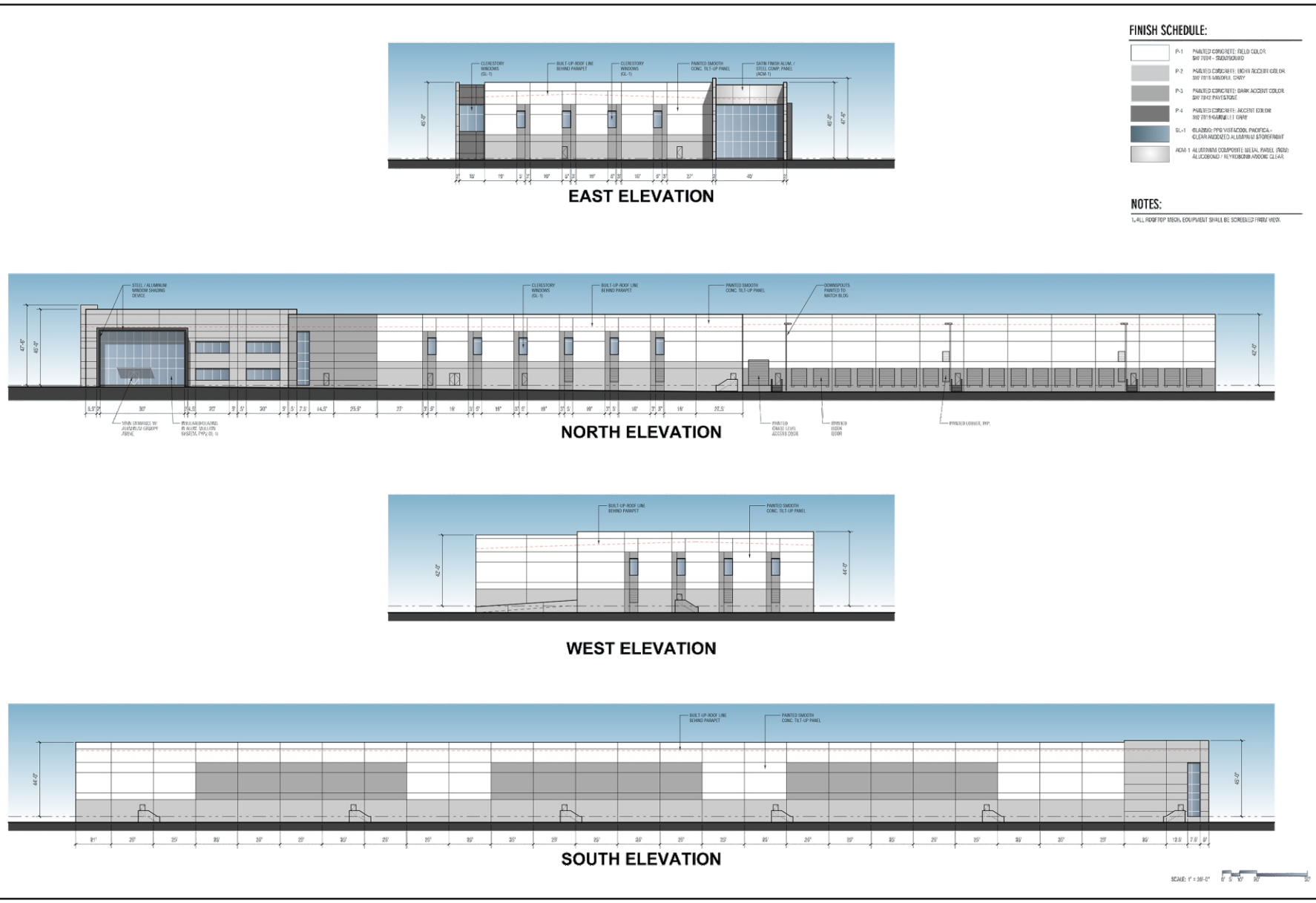

Source: RGA Office of Architectural Design, 07/27/21.

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Figure 9
Elevations

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Source: InSite, 8/12/21.

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Figure 10
Conceptual Rendering

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4.2 - AGRICULTURAL AND FORESTRY RESOURCES

This section describes the existing agricultural and forestry resources setting and the potential impacts from project implementation on the project site and its surrounding area.

4.2.1 - Environmental Setting

The project site is located on an undeveloped parcel. The eastern half of the project site is dominated by a steep hillside which is covered by non-native annual grassland, chaparral, and serpentine outcrops. The western half of the project site is flat and has been graded with some areas recolonized by ruderal vegetation. There is no forest land on the project site.

Applicable Plans, Policies, and Regulations

Farmland Mapping and Monitoring Program

The State Legislature established the California Department of Conservation Farmland Mapping and Monitoring Program (FMMP) in 1982 to assess the location, quality, and quantity of agricultural lands and conversion of them over time. The FMMP classifies the project site and its immediate surroundings as "Urban and Built-Up Land."[11] Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses. Additionally, the City has not designated the project site for agricultural use. The project site is currently vacant.

Williamson Act

The Williamson Act, classified in 1965 as the California Land Conservation Act, allows local governments to enter into contracts with private landowners, offering tax incentives in exchange for an agreement that the land will remain undeveloped or related open space use only for a period of 10 years. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

4.2.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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 nonagricultural use?	☐	☐	☐	☒
2. Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☐	☒

[11] California Department of Conservation. 2016. California Important Farmland Finder. Website: https://maps.conservation.ca.gov/DLRP/CIFF/. Accessed December 17, 2021.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
3. 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))?	☐	☐	☐	☒
4. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Impact Discussion

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. The Santa Clara County Important Farmland Map designates the project site as Urban and Built-Up Land. Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airport, and other utility uses. The project site is vacant and is surrounded by a mix of industrial development to the north, west, and south and by grazing land to the east. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

1) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?

No impact. The project proposes construction of one light industrial building and associated structures within an urban, developed area of San José. It would not support agricultural activities. As discussed above, the project is designated as Urban and Built-Up Land on the Santa Clara County Important Farmland Map and is not considered Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. For this reason, the proposed project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural use. No impact would occur.

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

No impact. The project site is zoned IP-Industrial Park and is an exclusive designation intended for a wide variety of industrial users, such as research and development, manufacturing, assembly,

testing, and offices. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. In addition, the property is not subject to a Williamson Act contract, as indicted by the Santa Clara GIS Property Assessment interactive mapping tool.[12] Therefore, the proposed project would not conflict with agricultural zoning or with a Williamson Act contract. No impact would occur.

3) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No impact. The project site is zoned Industrial Park (IP), which is a non-forest zoning designation. It is not zoned as forest land, timberland, or timberland zoned Timberland Production. Therefore, the proposed project would not conflict with existing zoning or cause rezoning of forest land, timberland, or timberland zoned Timberland Production. No impact would occur.

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

No impact. The project site does not contain, nor is it adjacent to, forest land. Therefore, it would not result in a loss of forest land or a conversion of forest land to non-forest uses. No impact would occur.

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

No impact. The project site is not located within an area zoned for agriculture or forestry-related uses. There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance in the City. Furthermore, the project site is not forested. For these reasons, the proposed project would not result in the conversion of Farmland to nonagricultural use or conversion of forest land to non-forest use. No impact would occur.

Mitigation Measures

None have been identified.

City Standard Permit Conditions

None have been identified.

4.2.3 - Conclusion

There would be no impacts to agricultural or forestry resources.

[12] County of Santa Clara. 2021. Williamson Act Properties. Website: https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=1f39e32b4c0644b0915354c3e59778ce. Accessed December 17, 2021.

4.3 - AIR QUALITY

The following discussion is based, in part, on project-specific air pollutant emissions modeling results generated utilizing California Emissions Estimator Model (CalEEMod) version 2020.4.0. The modeling data is provided in its entirety as part of the Air Quality and Greenhouse Gas Analysis Report, dated September 29, 2021, and revised January 5, 2022, and February 18, 2022, included in Appendix A of this Initial Study, which also includes a Health Risk Assessment.

4.3.1 - Environmental Setting

Air Pollutants

Air quality is determined by the measurement of concentrations of various pollutants in the atmosphere. The concentration of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the Air Basin. The major determinants of transport and dilution are wind, atmospheric stability, terrain, and, for photochemical pollutants, sunlight. Based on federal and State regulations, carbon monoxide (CO), nitrogen oxides (NO_X), ozone, particulate matter (PM_{10} and $PM_{2.5}$), sulfur oxides (SO_X), hydrogen sulfide (H_2S), visibility-reducing particles, sulfates, and lead have been identified as major criteria pollutants. For the purposes of CEQA, CO, PM_{10}, $PM_{2.5}$, SO_X, and ozone precursors (NO_X and reactive organic gases [ROG]) are the pollutants of principle concern in this analysis.

Air pollutants relevant to the CEQA checklist questions for Air Quality are briefly described below.

- Ozone is a gas that is formed when ROGs and NO_X—both byproducts of incomplete fuel combustion exhaust—undergo slow photochemical reactions in the atmosphere in the presence of sunlight. Ozone concentrations are generally highest during the summer months when direct sunlight, light wind, and warm temperature conditions are conducive to its formation. Health effects can include, but not be limited to, irritated respiratory system, reduced lung function, and aggravated chronic lung diseases.
- ROGs, or volatile organic compounds (VOCs), are defined as any compound of carbon—excluding CO, carbon dioxide (CO_2), carbonic acid, metallic carbides or carbonates, and ammonium carbonate—that participates in atmospheric photochemical reactions. Although there are slight differences in the definition of ROG and VOCs, the two terms are often used interchangeably.
- Nitrogen dioxide (NO_2) forms quickly in the atmosphere from NO emissions. Health effects from NO_2 can include the following: the potential to aggravate chronic respiratory disease and respiratory symptoms in sensitive groups; risk to public health implied by pulmonary and extra-pulmonary biochemical and cellular changes and pulmonary structural changes; contribution to atmospheric discoloration; and increased visits to the hospital for respiratory illnesses.
- CO is a colorless, odorless gas produced by the incomplete combustion of fuels. CO concentrations tend to be the highest during the winter mornings with little to no wind, when surface-based inversions trap the pollutant at ground levels. Because CO is emitted

directly from internal combustion engines and motor vehicles operating at slow speeds are a primary source of CO in the Santa Clara County region, the highest ambient CO concentrations are generally found near congested transportation corridors and intersections. Potential health effects from CO depends on exposure and can include slight headaches; nausea; aggravation of angina pectoris (chest pain) and other aspects of coronary heart disease; decreased exercise tolerance in persons with peripheral vascular disease and lung disease; impairment of central nervous system functions; possible increased risk to fetuses; and death.

- SO_X include sulfur dioxide (SO_2) and sulfur trioxide. SO_2 is a colorless, pungent gas. The gas has a strong odor at levels greater than 0.5 parts per million (ppm), similar to rotten eggs. Sulfuric acid is formed from SO_2, leading to acid deposition and can harm natural resources and materials. Although SO_2 concentrations have been reduced to levels well below State and federal standards, further reductions are desirable because SO_2 is a precursor to sulfate and PM_{10}.
- Respirable Particulate Matter (PM_{10}) and Fine Particulate Matter ($PM_{2.5}$) consist of extremely small, suspended particles or droplets 10 microns and 2.5 microns or smaller aerodynamic diameters. Some sources of particulate matter (PM), like pollen and windstorms, are naturally occurring. However, most PM is caused by road dust, diesel soot, combustion products, abrasion of tires and brakes, and construction activities in populated areas. Health effects from short-term exposure (hours/days) can include the following: irritation of the eyes, nose, throat; coughing; phlegm; chest tightness; shortness of breath; aggravation of existing lung disease, causing asthma attacks and acute bronchitis; those with heart disease can suffer heart attacks and arrhythmias. Health effects from long-term exposure can include the following: reduced lung function, chronic bronchitis; changes in lung morphology; and death.
- Toxic air contaminants (TACs) refer to a diverse group of air pollutants that can affect human health but have not had ambient air quality standards established for them. Diesel particulate matter (DPM) is a TAC emitted from construction equipment and diesel fueled vehicles. Some short-term (acute) effects of DPM exposure include eye, nose, throat, and lung irritation; coughing; headaches; light-headedness; and nausea. Studies have linked elevated particle levels in the air to increased hospital admissions and emergency room visits; asthma attacks; and premature deaths among those suffering from respiratory problems. Human studies on the carcinogenicity of DPM demonstrate an increased risk of lung cancer, although the increased risk cannot be clearly attributed to diesel exhaust exposure.

Sensitive Receptors

The Bay Area Air Quality Management District (BAAQMD) defines sensitive receptors as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and the chronically ill. These facilities include residences, school playgrounds, child-care centers, retirement homes, and convalescent homes. The proposed project is surrounded by urban uses, including residential, commercial, and industrial land uses. The closest existing sensitive receptors include the following:

- One single-family residence approximately 65 feet southwest of the project site.
- One single-family residence approximately 125 feet southwest of the project site.
- One single-family residence approximately 550 feet southwest of the project site.
- One single-family residence approximately 710 feet southwest of the project site.
- One single-family residence approximately 400 feet east of the project site.
- One single-family residence approximately 1,045 feet east of the project site.
- One single-family residence approximately 910 feet southeast of the project site.
- One single-family residence approximately 1,045 feet northwest of the project site.
- Carrington College approximately 4,000 feet south of the project site.
- Wyndham Garden San José approximately 4,500 feet south of the project site.
- The project site is vacant and no sensitive receptors currently exist on the project site.

In addition, the Family Community Church, located 820 feet to the southeast, and the San José Batting Cages, located 270 feet to the southeast, are near the project site. These uses were not included in the analysis as sensitive receptors because their nature would not result in prolonged or extensive sensitive receptor exposure to TACs generated during project construction. While the batting cages and church are likely to experience frequent visits from children, these businesses/facilities are not considered sensitive land uses (e.g., school, residence, hospital) because their operating hours are largely on the weekends or weekday evenings outside of the allowable timeframe of construction in the City. According to the City's Municipal Code, construction hours within 500 feet of a residential unit are restricted to between 7:00 a.m. to 7:00 p.m. Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. As existing residences are within 500 feet of the project site, construction would not be permitted during the weekends or past 7 p.m. on weekdays without being expressly allowed by a Development Permit or other planning approval.

Applicable Plans, Policies, and Regulations

Federal Clean Air Act

The Federal Clean Air Act establishes pollutant thresholds for air quality in the United States and the United States Environmental Protection Agency (EPA) administers it at the federal level. The EPA is responsible for establishing the National Ambient Air Quality Standards (NAAQS), which are required under the Federal Clean Air Act and have been established for six major air pollutants: CO, NO_X, ozone, PM_{10}, $PM_{2.5}$, SO_X, and lead.

California Clean Air Act

In addition to being subject to federal requirements, California has its own more stringent regulations under the California Clean Air Act, which is administered by the California Air Resources Board (ARB) at the State level under the California EPA (Cal/EPA). The ARB is responsible for meeting the State requirements of the Federal Clean Air Act, administering the California Clean Air Act, and establishing the California Ambient Air Quality Standards (CAAQS). The California Clean Air Act requires all air districts in the State to achieve and maintain CAAQS.

Clean Air Plan

The BAAQMD is primarily responsible for assuring that the NAAQS and CAAQS are attained and maintained in the San Francisco Bay Air Basin (Air Basin). Santa Clara County, and the Bay Area as a whole, is classified as a nonattainment area for the 8-hour ozone and $PM_{2.5}$ NAAQS and nonattainment for the ozone, PM_{10}, and $PM_{2.5}$ CAAQS. The County is either in attainment or unclassified for other pollutants.

Regional air quality management districts, such as the BAAQMD, must prepare Air Quality Plans (AQPs) specifying how State air quality standards would be met. The BAAQMD's most recently adopted AQP is the *2017 Clean Air Plan: Spare the Air, Cool the Climate*. The 2017 Clean Air Plan focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 Clean Air Plan describes how the 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 that end, the 2017 Clean Air Plan includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as PM, ozone, and TACs. To protect the climate, the 2017 Clean Air Plan includes control measures intended to reduce greenhouse gas (GHG) emissions by reducing fossil fuel combustion.

The BAAQMD also has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than federal and State air quality laws and regulations.

BAAQMD CEQA Air Quality Guidelines

The BAAQMD is the primary agency responsible for ensuring that air quality standards (NAAQS and CAAQS) are attained and maintained in the Air Basin through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues.[13] The BAAQMD prepares plans to attain ambient air quality standards in the Air Basin. BAAQMD prepares ozone attainment plans for the national ozone standard, Clean Air Plans for the California standard, and PM plans to fulfill federal air quality planning requirements. The BAAQMD also inspects stationary sources of air pollution; responds to citizen complaints; monitors ambient air quality and meteorological conditions; and implements programs and regulations required by the Clean Air Act, the Clean Air Act Amendments of 1990, and the California Clean Air Act.

The BAAQMD developed quantitative thresholds of significance for its CEQA Guidelines in 2010, which were also included in its updated subsequent guidelines. BAAQMD's adoption of the 2010 thresholds of significance was later challenged in court. In an opinion issued on December 17, 2015, related to the BAAQMD CEQA Guidelines, the California Supreme Court held that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards unless the project would exacerbate existing environmental hazards. The Supreme Court also found that CEQA requires an analysis of human exposure to environmental hazards in specific circumstances, such as development proposed near airports and the siting of

[13] Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act. Air Quality Guidelines. May. Website: https://www.baaqmd.gov/~/media/files/planning-and research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed December 17, 2021.

schools on or near hazardous waste sites. The Supreme Court further held that public agencies may voluntarily conduct this analysis for their own public projects when not required by CEQA (*CBIA v. BAAQMD [2016] 2 Cal.App.5th 1067, 1083*).

In view of the Supreme Court's opinion, the BAAQMD published a new version of its CEQA Guidelines in May 2017. The BAAQMD CEQA Guidelines state that local agencies may rely on thresholds designed to reflect the impact of locating development near areas of toxic air contamination where such analysis is required by CEQA or where the agency determines such analysis would assist in making a decision about the project. However, the thresholds are not mandatory and agencies should apply them only after determining that they reflect an appropriate measure of a project's impacts. The BAAQMD's Guidelines for implementation of the thresholds are for informational purposes only, to assist local agencies.

City of San José Building Reach Code

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

Private Sector Green Building Policy (Council Policy 6-32)

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED™), GreenPoint, or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 15 below.

Table 1: Private Sector Green Building Policy Applicable Projects

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

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
High Rise Residential (75 feet or higher)	LEED™ Certified
Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. Website: https://www.sanJoséca.gov/DocumentCenter/Home/View/363.	

Envision San José 2040 General Plan

The General Plan includes policies applicable to all development projects in San José. Various policies in the General Plan have been adopted for reducing or avoiding impacts related to air quality, listed below.

Envision San José 2040 General Plan Relevant Air Quality Policies

Policies	Description
Policy MS-10.1	Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to State and federal standards. Identify and implement air emissions reduction measures.
Policy MS-10.2	Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.
Policy MS-11.1	Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.
Policy MS-11.2	For projects that emit toxic air contaminants, require project proponents to prepare health risk assessments in accordance with BAAQMD-recommended procedures as part of environmental review and employ effective mitigation to reduce possible health risks to a less than significant level. Alternatively, require new projects (such as, but not limited to, industrial, manufacturing, and processing facilities) that are sources of TACs to be located an adequate distance from residential areas and other sensitive receptors.
Policy MS-11.3	Review projects generating significant heavy-duty truck traffic to designate truck routes that minimize exposure of sensitive receptors to TACs and particulate matter.
Policy MS-11.4	Encourage the installation of air filtration, to be installed at existing schools, residences, and other sensitive receptor uses adversely affected by pollution sources.
Policy MS-11.5	Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.
Policy MS-13.1	Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☒	☐	☐
2. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?	☐	☐	☒	☐
3. Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐
4. Result in other emissions (such as those leading to odors or) adversely affecting a substantial number of people?	☐	☐	☒	☐

Thresholds of Significance

Where available, the significance criteria established or recommended by the BAAQMD were used to make the following CEQA significance determinations. The BAAQMD has adopted thresholds of significance for construction and operation. The thresholds of significance are shown in Table 2. In developing thresholds of significance for air pollutants, the BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. 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.

Table 2: BAAQMD Thresholds of Significance

Pollutant	Construction Thresholds Average Daily Emissions (pounds/day)	Operational Thresholds	
		Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
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-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance, other Best Management Practices (BAAQMD Basic Construction Mitigation Measures)	Not Applicable	

Pollutant	Construction Thresholds Average Daily Emissions (pounds/day)	Operational Thresholds	
		Average Daily Emissions (pounds/day)	Annual Average Emissions (tons/year)
Health Risks and Hazards for New Sources			
Excess Cancer Risk	$\geq$ 10 per one million	$\geq$ 10 per one million	
Chronic or 1-hour Acute Hazard Index	$\geq$ 1.0	$\geq$ 1.0	
Incremental annual average $PM_{2.5}$	$\geq$ 0.3 µg/m^3	$\geq$ 0.3 µg/m^3	
Health Risks and Hazards for Sensitive Receptors (Cumulative from All Sources within 1,000-Foot Zone of Influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	$\geq$ 100 per 1 million		
Chronic Hazard Index	$\geq$ 10.0		
Annual Average $PM_{2.5}$	$\geq$ 0.8 µg/m^3		

Notes:
µg/m^3 = micrograms per cubic meter
CO = carbon monoxide
NO_X = nitrogen oxides
PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 µm or less
$PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5 µm or less
ROG = reactive organic gases
Source: Bay Area Air Quality Management District (BAAQMD). 2017. CEQA Air Quality Guidelines. May. Website: http://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed May 25, 2021.

Impact Discussion

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

Less than significant impact with mitigation incorporated. The project site is located in the San Francisco Bay Area Air Basin (Air Basin), where the BAAQMD regulates air quality. The EPA is responsible for identifying nonattainment and attainment areas for each criteria pollutant within the Air Basin. The Air Basin is designated nonattainment for State standards for 1-hour and 8-hour ozone, 24-hour respirable particulate matter (PM_{10}), annual PM_{10}, and annual fine particulate matter ($PM_{2.5}$).

The BAAQMD has adopted several air quality policies and plans to address regional air quality standards, the most recent of which is the 2017 Clean Air Plan. The 2017 Clean Air Plan was adopted in April of 2017 and serves as the regional AQP for the Air Basin for attaining NAAQS. The primary goals of the 2017 Clean Air Plan are to protect public health and protect the climate. The 2017 Clean Air Plan acknowledges that the BAAQMD's two stated goals of protection are closely related. As such, the 2017 Clean Air Plan identifies a wide range of control measures intended to decrease both criteria pollutants and GHG. The 2017 Clean Air Plan also accounts for projections of population growth provided by ABAG and Vehicle Miles Traveled (VMT) provided by the Metropolitan Transportation Commission (MTC) and identifies strategies to bring regional emissions into compliance with federal and State air quality standards. A project would be judged to conflict with or

obstruct implementation of the 2017 Clean Air Plan if it would result in substantial new regional emissions not foreseen in the air quality planning process.

The BAAQMD does not provide a numerical threshold of significance for project-level consistency analysis with AQPs. Therefore, the following criteria will be used for determining a project's consistency with the AQP.

- **Criterion 1:** Does the project support the primary goals of the AQP?
- **Criterion 2:** Does the project include applicable control measures from the AQP?
- **Criterion 3:** Does the project disrupt or hinder the implementation of any AQP control measures?

Criterion 1

The primary goals of the 2017 Clean Air Plan, the current AQP to date, are to:

- Attain air quality standards;
- Reduce population exposure to unhealthy air and protect public health in the Bay Area; and
- Reduce GHG emissions and protect the climate.

A measure for determining whether the proposed project supports the primary goals of the AQP is if the proposed project would not result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the AQPs. This measure is determined by comparing project emissions to the significance thresholds identified by the BAAQMD for construction- and operation-related pollutants.

As discussed under Checklist Questions 2 and 3, the proposed project would not significantly contribute to cumulative nonattainment pollutant violations or expose sensitive receptors to substantial pollutant concentrations after incorporating identified mitigation. Fugitive dust control measures would be required during the construction of the proposed project in order to reduce localized dust impacts. Impacts related to fugitive dust from the proposed project's construction would be potentially significant without the inclusion of sufficient dust control measures. Adherence to the City's Standard Permits Condition listed below would require the inclusion of Best Management Practices (BMPs) recommended by the BAAQMD and adopted by the City as Standard Permit Conditions to reduce potential impacts related to fugitive dust emissions from use of construction equipment. In addition, as discussed under Checklist Question 3, construction would result in potentially significant health risk impacts from construction DPM emissions and would require the implementation of MM AIR-1, which would require the use of Tier 4 Interim engines for construction equipment equal to or greater than 50 horsepower. With adherence to Standard Permit Condition listed below and implementation of MM AIR-1, the proposed project would be consistent with Criterion 1.

Criterion 2

Another measure for determining whether a project is consistent with the AQP is to determine whether it is inconsistent with the growth assumptions incorporated into the AQP and, thus,

whether it would interfere with the region's ability to comply with federal and California air quality standards. The development of the AQP is based in part on the General Plan Land Use determinations of the various cities and counties that constitute the Air Basin. The proposed project would build a 121,580-square-foot industrial building including an approximately 5,000 square feet mezzanine on an approximately 14.26-acre site. The General Plan Land Use Map designates the project site as Industrial Park (IP), which is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Thus, the proposed project would generally be consistent with the underlying general plan land use designation and would not have the potential to substantially affect housing, employment, and population projections in the region that are the basis of the 2017 Clean Air Plan projections.

The AQPs also assume adherence to all mandatory regulations to reduce air pollution. Therefore, to conform to the assumptions in the AQP a project must be consistent with all applicable measures contained in the applicable AQP. The Clean Air Plan contains 85 control measures to reduce air pollutants and GHGs at the local, regional, and global levels. Along with the traditional stationary, area, mobile source, and transportation control measures, the Clean Air Plan contains several control measures designed to protect the climate, promote mixed-use, and compact development to reduce vehicle emissions and exposure to pollutants from stationary and mobile sources. The Clean Air Plan also includes an account of the implementation status of control measures identified in the 2010 Clean Air Plan.

Table 3 lists the relevant Clean Air Plan control measures to the proposed project and evaluates the proposed project's consistency with the measures. As shown below, the proposed project would be consistent with applicable measures.

Table 3: Project Consistency with Applicable Clean Air Plan Control Measures

Control Measure	Project Consistency
Buildings Control Measures	
BL1: Green Buildings	**Consistent**. The proposed project would be required to comply with Council Policy 6-32 and attain LEED™ Silver certification because it is over 25,000 square feet in size. Moreover, the proposed project would be required to be designed according to the latest energy efficiency requirements in the California Building Code, which would add to the proposed building's overall energy efficiency.
BL4: Urban Heat Island Mitigation	**Consistent.** The proposed project would incorporate landscaping throughout the site. The proposed project would provide landscaping, including trees, shrubs, vines, and groundcover, according to City standards that would reduce the urban heat island effect.
Energy Control Measures	
EN1: Decarbonize Electricity Generation	**Consistent.** The proposed project would comply with the latest energy efficiency standards and incorporate applicable energy efficiency features designed to reduce project energy consumption. In addition, the proposed project would comply with the City's Reach Code that requires building electrification and energy efficiency,

Control Measure	Project Consistency
	solar readiness on nonresidential buildings, and EV readiness and EV equipment installation. Moreover, as discussed in Section 4.8, Greenhouse Gas Emissions, the proposed project would enroll in San José Clean Energy's (SJCE) TotalGreen program, which would ensure that 100 percent of the project electricity consumption is sourced from decarbonized generation sources.
EN2: Decrease Electricity Demand	**Consistent.** The proposed project would be required to conform to the energy efficiency requirements of the California Building Standards Code (CBC), also known as Title 24, which was adopted to meet an Executive Order in the Green Building Initiative to improve the energy efficiency of buildings through aggressive standards. The 2019 Title 24 Standards are the current State building regulations, which went into effect on January 1, 2020. In addition, the proposed project would be required to comply with Council Policy 6-32 and attain LEED™ Silver certification because it is over 25,000 square feet in size, and the proposed project would comply with the City's Reach Code that requires building electrification and energy efficiency, solar readiness on nonresidential buildings, and EV readiness and EV equipment installation.
Natural and Working Lands Control Measures	
NW2: Urban Tree Planting	**Consistent.** The proposed project would incorporate landscaping, including trees, shrubs, vines, and groundcover, which would be installed along setbacks and throughout the project site and in compliance with City requirements.
WA3: Green Waste Diversion	**Consistent.** The waste service provider for the proposed project will be required to meet the AB 341 and SB 939 and SB 1374 requirements that require waste service providers to divert green waste. All plant refuse generated during operations of the proposed project would be recycled off-site.
WA4: Recycling and Waste Reduction	**Consistent.** The waste service provider for the proposed project will be required to meet the AB 341 and SB 939 and SB 1374 requirements that require waste to be recycled.
Stationary Control Measures	
SS36: Particulate Matter from Trackout	**Consistent with Standard Permit Conditions.** Mud and dirt that may be tracked out onto the nearby public roads during construction activities shall be removed promptly by the contractor based on the BAAQMD's BMPs for control of fugitive dust emissions during construction, which have been adopted by the City as Standard Permit Conditions.
SS37: Particulate Matter from Asphalt Operations	**Consistent.** Asphalt used during project construction would be subject to BAAQMD Regulation 8, Rule 15-Emulsified and Liquid Asphalts. Although this rule does not directly apply to

Control Measure	Project Consistency
	the proposed project, it does limit the ROG content of asphalt available for use during construction by regulating the sale and use of asphalt. Using asphalt from facilities that meet BAAQMD regulations, the proposed project would be consistent with this Clean Air Plan measure.
Transportation Control Measures	
TR9: Bicycle and Pedestrian Access and Facilities	**Consistent.** The proposed project would include eight bicycle parking spaces, which is more than the seven spaces required by the City. Several bus stops are located within a short walking distance of the site, including the Hellyer and Piercy stop, located 350 feet southwest of the project site; the Silver Creek Valley and Hellyer stop, located 650 feet southwest of the project site; and the Silver Creek Valley and Fontanoso stop, located 1,250 feet southwest of the project site. Therefore, the proposed project would not conflict with and would be consistent with the BAAQMD's effort to encourage planning for bicycle and pedestrian facilities.
Source: Bay Area Air Quality Management District (BAAQMD). 2017. Final 2017 Clean Air Plan. April 19. Website: https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en. Accessed June 2, 2021.	

As summarized in Table 3 above, the proposed project would not conflict with any applicable measures under the 2017 Clean Air Plan with adherence to the Standard Permit Condition described below; therefore, the proposed project would be consistent with Criterion 2.

Criterion 3

The proposed project would not preclude extension of a transit line or bike path, propose excessive parking beyond parking requirements, or otherwise create an impediment or disruption to implementation of any AQP control measures. As shown in Table 3 above, the proposed project would incorporate several AQP control measures as project design features, such as utilizing asphalt which would be compliant with BAAQMD regulations, complying with energy efficiency standards contained in the 2019 California Building Standards Code (CBC), installing landscaping across the project site, achieving LEED™ Silver certification, and complying with the City's Reach Code that requires building electrification and energy efficiency. Considering this information, the proposed project would not disrupt or hinder the implementation of any AQP control measures. The proposed project is therefore consistent with Criterion 3.

Summary

As discussed above, the proposed project would be consistent with all three criteria with adherence to the Standard Permit Condition described below and implementation of MM AIR-1. Thus, the proposed project would not conflict with the 2017 Clean Air Plan. Therefore, impacts associated with conflicting with or obstructing the 2017 Clean Air Plan would be less than significant with mitigation incorporated.

City Standard Permit Condition

Construction Air Quality

The project applicant shall 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 trackout onto adjacent public roads by 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 at the lead agency to contact regarding dust complaints.

2) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)

Less than significant impact. This impact is related to the cumulative effect of a project's criteria pollutant emissions. By its nature, air pollution is largely a cumulative impact resulting from emissions generated over a large geographic region. The nonattainment status of regional pollutants results from past and present development within the Air Basin and this regional impact is a cumulative impact. Therefore, new development projects (such as the proposed project) within the Air Basin would contribute to this impact only on a cumulative basis. No single project would be sufficient in size, by itself, to result in nonattainment of regional air quality standards. Instead, a project's emissions may be individually limited but cumulatively considerable when evaluated in combination with past, present, and future development projects.

Potential regional impacts could result in exceedances of State or federal standards for NO_X, particulate matter (PM_{10} and $PM_{2.5}$), or CO. NO_X emissions are of concern because of potential health impacts from exposure to NO_X emissions during both construction and operation and as a precursor in the formation of airborne ozone. PM_{10} and $PM_{2.5}$ are of concern during construction because of the potential for exhaust emissions from the operation of off-road construction equipment and fugitive dust during earth-disturbing activities (construction fugitive dust). CO emissions are of concern during project operation because operational CO hotspots are related to increases in on-road vehicle congestion and potentially severe health effects.

ROG emissions are also important because of their participation in the formation of ground-level ozone. Ozone is a respiratory irritant and an oxidant that increases susceptibility to respiratory infections and can cause substantial damage to vegetation and other materials. Elevated ozone concentrations result in reduced lung function, particularly during vigorous physical activity. This health problem is particularly acute in sensitive receptors such as the sick, elderly, and young children.

The cumulative analysis focuses on whether a specific project would result in cumulatively considerable emissions. According to Section 15064(h)(4) of the CEQA Guidelines, the existence of significant cumulative impacts caused by other projects alone does not constitute substantial evidence that the proposed project's incremental effects would be cumulatively considerable. Rather, the determination of cumulative air quality impacts for construction and operational emissions is based on whether the proposed project would result in emissions that exceed the BAAQMD thresholds of significance for construction and operations on a project level. The thresholds of significance represent the allowable amount of emissions each project can generate without generating a cumulatively considerable contribution to regional air quality impacts. Therefore, a project that would not exceed the BAAQMD thresholds of significance on the project level also would not be considered to result in a cumulatively considerable contribution to these regional air quality impacts. Construction and operational emissions are discussed separately below.

Construction Emissions

During construction, fugitive dust would principally be generated from site grading and other earthmoving activities. The majority of this fugitive dust would remain localized and would be deposited near the project site; however, the potential for impacts from fugitive dust exists unless control measures are implemented to reduce the emissions from this source. Exhaust emissions would also be generated from the operation of the off-road construction equipment and on-road construction vehicles.

Construction Fugitive Dust

The BAAQMD does not recommend a numerical threshold for fugitive dust PM emissions. Instead, the BAAQMD bases the determination of significance for fugitive dust on considering the control measures to be implemented. If the appropriate emission control measures/BMPs are implemented for a project as recommended by the BAAQMD, then fugitive dust emissions during construction are not considered significant. The City has adopted BAAQMD's BMPs as a Standard Permit Condition, as outlined in the Standard Permit Condition described in Checklist Question 1, and these fugitive dust control measures shall be implemented during construction activities. As a result, short-term construction fugitive dust impacts would be less than significant.

Construction Air Pollutant Emissions: ROG, NO_X, Exhaust PM_{10}, and Exhaust $PM_{2.5}$

California Emissions Estimator Model (CalEEMod) Version 2020.4.0 was used to estimate the proposed project's construction emissions. CalEEMod provides a consistent platform for estimating construction and operational emissions from a wide variety of land use projects and is the model recommended by the BAAQMD for estimating project emissions. Estimated construction emissions are compared with the applicable thresholds of significance established by the BAAQMD to assess ROG, NO_X, exhaust PM_{10}, and exhaust $PM_{2.5}$ construction emissions to determine significance for this criterion.

At the time the analysis was prepared, the anticipated construction duration of the proposed project was expected to begin in April 2022 and conclude in February 2023. The preliminary construction schedule is shown in Table 4 below. Note that construction emissions would likely decrease if the construction schedule moved to later years because of improvements in technology and more stringent regulatory requirements. The duration of construction activity and associated equipment represents a reasonable approximation of the expected construction fleet as CEQA Guidelines require.

Table 4: Preliminary Construction Schedule

Phase	Phase Start Date	Phase End Date	Working Days per Week	Total Number of Working Days
Site Preparation	4/15/2022	5/12/2022	5	20
Grading	5/13/2022	6/23/2022	5	30
Building Construction	6/24/2022	12/22/2022	5	130
Paving	12/23/2022	1/19/2023	5	20
Architectural Coating	1/20/2023	2/16/2023	5	20

The calculations of pollutant emissions from the construction equipment account for the type of equipment, horsepower and load factors of the equipment, and duration of equipment use. At the time the Air Quality, Greenhouse Gas Emissions, and Energy Analysis (Appendix A) was prepared, the project applicant anticipated approximately 1,000 cubic yards of soil to be imported and approximately 5,000 cubic yards of soil to be exported during project construction. The project applicant has since confirmed that an estimated 2,380 cubic yards of soil would be exported during project construction; therefore, the emissions modeling utilized in this analysis represents a conservative assessment of construction emissions. Average daily construction emissions are compared with the significance thresholds in Table 5.

Table 5: Construction Emissions (Average Daily Rate)

Parameter	Air Pollutants (tons/year)				
	Year	ROG	NO_X	PM_{10} (Exhaust)	$PM_{2.5}$ (Exhaust)
Project Construction					
Site Preparation	2022	0.03	0.33	0.02	0.01
Grading	2022	0.03	0.38	0.07	0.01

Parameter	Air Pollutants (tons/year)				
	Year	ROG	NO_X	PM_{10} (Exhaust)	$PM_{2.5}$ (Exhaust)
Building Construction	2022	0.14	1.23	0.06	0.05
Paving	2022	<0.01	0.03	<0.1	<0.1
	2023	0.01	0.07	<0.1	<0.1
Architectural Coating	2023	0.67	0.01	<0.1	<0.1
Total Emissions (tons/year)[1]	**–**	**0.89**	**2.06**	**0.09**	**0.09**
Daily Average					
Total Emissions (lbs/year)[1]		1,774	4,123	184	172
Average Daily Emissions (lbs/day)[2]		8	19	1	1
Significance Threshold (lbs/day)		**54**	**54**	**82**	**54**
Exceeds Significance Threshold?		**No**	**No**	**No**	**No**

Notes:
lbs = pounds
NO_X = oxides of nitrogen
PM_{10} = particulate matter 10 microns in diameter
$PM_{2.5}$ = particulate matter 2.5 microns in diameter
ROG = reactive organic gases
[1] Totals may not add up due to rounding. Calculations use unrounded totals.
[2] Calculated by dividing the total pounds of emissions by the total number of nonoverlapping working days of construction (220 workdays).
Source: CalEEMod Output (see Appendix A).

As indicated in Figure 5 above, the construction emissions from all construction activities are below the recommended thresholds of significance; therefore, the proposed project's construction would have less than significant impact related to emissions of ROG, NO_X, exhaust PM_{10}, and exhaust $PM_{2.5}$. As previously discussed, the proposed project would adhere to the applicable Standard Permit Condition for dust control BMPs recommended by the BAAQMD to reduce potential impacts related to fugitive dust emissions during project construction. Therefore, project construction would have a less than significant impact.

Operational Emissions

Operational Air Pollutant Emissions: ROG, NO_X, PM_{10}, and $PM_{2.5}$

Operational emissions would include area, energy, and mobile sources. Area sources would include emissions from architectural coatings, consumer products, and landscape equipment. Energy sources include emissions from the combustion of natural gas for water and space heating. Mobile sources include exhaust and road dust emissions from the vehicles that would travel to and from the project site. Pollutants of concern include ROG, NO_X, PM_{10}, and $PM_{2.5}$.

Project operations were analyzed starting in 2023, the first calendar year following project construction. The major sources for operational emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$ include motor vehicle traffic and the occasional repainting of buildings. Assumptions used to estimate operational emissions were consistent with those presented in the Transportation Analysis prepared

by Hexagon Transportation Consultants, Inc. for the proposed project (Appendix I).[14] Operational emissions of the respective pollutants were calculated using CalEEMod, Version 2020.4.0. For detailed assumptions used to estimate emissions, see Appendix A. Table 6 presents the annual and average daily emissions generated during project operation.

Table 6: Operational Emissions

Emissions Source	Pounds per Day[1]			
	ROG	**NO_X**	**PM_{10}**	**$PM_{2.5}$**
Area	0.55	<0.01	<0.01	<0.01
Energy	–	–	–	–
Mobile – Passenger Vehicles and Trucks	0.06	1.74	0.41	0.12
Total (tons/year)	*0.61*	1.74	*0.41*	*0.12*
Significance Threshold (Tons/Year)	**10**	**10**	**15**	**10**
Exceeds Significance Threshold?	**No**	**No**	**No**	**No**
Total Average (pounds/day)	*3*	*10*	*2*	*1*
Significance Threshold (Tons/Year)	**54**	**54**	**82**	**54**
Exceeds Significance Threshold?	**No**	**No**	**No**	**No**

Notes:
NO_X = nitrous oxides
PM_{10} = particulate matter 10 microns or less in diameter
$PM_{2.5}$ = particulate matter 2.5 microns or less in diameter
ROG = reactive organic gases
[1] Totals may not add up due to rounding. Calculations use unrounded results.
Source: CalEEMod Output (see Appendix A).

As shown in Figure 6 above, the proposed project would not result in operational air pollutants or precursors emissions that would exceed the BAAQMD's thresholds of significance. Therefore, the ongoing, long-term project operations would not have the potential to generate a significant quantity of air pollutants. Thus, long-term operational impacts associated with criteria pollutant emissions generated by the proposed project would be less than significant without mitigation.

Operational Carbon Monoxide Hotspot

The CO emissions from traffic generated by the proposed project are a concern at the local level. Congested intersections can result in high, localized concentrations of CO.

The BAAQMD recommends a screening analysis to determine whether a project has the potential to contribute to a CO hotspot. The screening criteria identify when site-specific CO dispersion modeling is necessary. The proposed project would result in a less than significant impact to air quality for local CO if all the following screening criteria are met:

[14] Hexagon Transportation Consultants, Inc. 2022. 455 Piercy Road Warehouse Transportation Analysis. January 21.

1. The proposed project is consistent with an applicable Congestion Management Program established by the county congestion management agency for designated roads or highways, Regional Transportation Plan (RTP), and local congestion management agency plans; and

1. The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour; and

2. The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

Based on the information provided in the Transportation Analysis prepared by Hexagon and contained in Appendix I, the proposed project would generate 201 new daily vehicle trips, with 20 new trips occurring during the AM peak-hour and 22 new trips occurring during the PM peak-hour. As the Transportation Analysis did not distinguish between passenger vehicles and trucks, the applicant indicated that 10 to 15 of the total 17 loading docks are anticipated to be occupied on a daily basis. Therefore, the applicant anticipates up to 15 trucks to access the project site daily, resulting in an estimated 30 daily truck trips. According to the Transportation Analysis, the studied intersection which would experience the greatest traffic volumes during the Background Plus Project scenario would be the intersection of Silver Creek Valley Road and Piercy Road. As discussed therein, that intersection would experience an estimated 3,798 AM peak-hour vehicle trips and 3,528 PM peak-hour vehicle trips including project-generated traffic. As such, the proposed project would not generate vehicle trips which could exceed the volumes of 44,000 vehicle per hour or 24,000 vehicles per hour for areas where vertical and/or horizontal mixing is substantially limited.

Furthermore, as discussed in the Hexagon Transportation Analysis, the proposed project would generate fewer than 100 new peak-hour vehicle trips; thus, a Congestion Management Program (CMP) traffic analysis based on the Santa Clara Valley Transportation Authority Guidelines is not required. As such, the proposed project is assumed to be consistent with the local CMP and would not result in a potentially significant impact. This impact would be less than significant.

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

Less than significant impact with mitigation incorporated. The BAAQMD defines a sensitive receptor as the following: “Facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples include schools, hospitals, and residential areas.” As specified by the BAAQMD, health risk and hazard impacts should be analyzed for sensitive receptors within a 1,000-foot radius of the project site. The closest existing sensitive receptors include the following:

- One single-family residence approximately 65 feet southwest of the project site.
- One single-family residence approximately 125 feet southwest of the project site.
- One single-family residence approximately 550 feet southwest of the project site.
- One single-family residence approximately 710 feet southwest of the project site.
- One single-family residence approximately 400 feet east of the project site.
- One single-family residence approximately 1,045 feet east of the project site.

- One single-family residence approximately 910 feet southeast of the project site.
- One single-family residence approximately 1,045 feet northwest of the project site.

In addition, the Family Community Church, located 820 feet to the southeast, and the San José Batting Cages, located 270 feet to the southeast, are near the project site. These uses were not included in the analysis as sensitive receptors because their nature would not result in prolonged or extensive sensitive receptor exposure to TACs generated during project construction. While the batting cages and church are likely to experience frequent visits from children, these businesses/facilities are not considered sensitive land uses (e.g., school, residence, hospital) because their operating hours are largely on the weekends or weekday evenings outside of the allowable timeframe of construction in the City. According to the City's Municipal Code, construction hours within 500 feet of a residential unit are restricted to between 7:00 a.m. to 7:00 p.m. Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. As existing residences are within 500 feet of the project site, construction would not be permitted during the weekends or past 7:00 p.m. on weekdays without being expressly allowed by a Development Permit or other planning approval.

The proposed project would result in a potentially significant impact on sensitive receptors if any of the following two criteria are met:

- **Criterion 1:** Construction of the proposed project would exceed the BAAQMD health risk significance thresholds.
- **Criterion 2:** Operation of the proposed project would exceed the BAAQMD health risk significance thresholds.

Criterion 1: Project Construction Toxic Air Pollutants

An assessment was made of the potential health impacts on surrounding sensitive receptors resulting from TAC emissions during construction. The assessment is provided below, while Appendix A provides the detailed assumptions and modeling parameters.

DPM has been identified by the ARB as a carcinogenic substance. Major sources of DPM include off-road construction equipment and heavy-duty delivery and vendor trucks and worker activities. For purposes of this analysis, DPM is represented as exhaust emissions of $PM_{2.5}$.

Estimation of Construction DPM Emissions

Construction DPM emissions were estimated using CalEEMod, Version 2020.4.0. Construction was assumed to begin in April 2022 and conclude in February 2023. Project construction emissions were assumed to be distributed over the project site with a working schedule of 8 hours per day, 5 days per week. Table 7 summarizes the emission rates of DPM emissions during construction of the proposed project and DPM emissions during construction of the proposed project with the application of MM AIR-1. As identified in Table 8, DPM emissions generated by project construction would result in an exceedance of BAAQMD's cancer risk threshold and would require the implementation of MM AIR-1 to ensure impacts are less than significant.

Table 7: Project DPM Construction Emissions

Scenario	On-site DPM—Area (tons/year)	Off-site DPM—Road Segments (tons/year)[1]	Total Local DPM Emissions (tons/year)
Proposed Project	0.08287	0.00289	0.08576
Mitigated Project[2]	0.00837	0.00289	0.01126

Notes:
DPM = diesel particulate matter
[1] The off-site emissions are adjusted to represent construction vehicle travel routes from within approximately 1,000 feet of the project site.
[2] The emissions associated with the mitigated project displayed here incorporate the use of Tier 4 Interim engines for all construction equipment rated for 50 horsepower or greater, as required with MM AIR-1.
Source: CalEEMod Output and Construction Health Risk Assessment Calculations; see Appendix A.

To assess impacts to off-site sensitive receptors, the American Meteorological Society/EPA Regulatory Model (AERMOD) air dispersion model was used to estimate the DPM emission concentrations at nearby sensitive receptors within 1,000 feet of the project site.

Estimation of Cancer Risks

The BAAQMD has developed a set of guidelines for estimating cancer risks resulting from exposure to TACs. These guidelines require the use of Hotspots Analysis and Reporting Program (HARP2) software to identify the cancer risk associated with DPM generated during construction activities.

Estimation of Non-Cancer Chronic Hazards

An evaluation of the potential non-cancer effects of chronic chemical exposures was also conducted. Adverse health effects are evaluated by comparing the annual receptor concentration of each chemical compound with the appropriate reference exposure limit. Available reference exposure limits promulgated by the California Office of Environmental Health Hazard Assessment (OEHHA) were considered in the assessment.

Risk characterization for non-cancer health hazards from TACs is expressed as a Hazard Index (HI). The HI is a ratio of the predicted concentration of the proposed project's emissions to a concentration considered acceptable to public health professionals, termed the reference exposure limit. The HI assumes that chronic sub-threshold exposures adversely affect a specific organ or organ system (toxicological endpoint). For each discrete chemical exposure, target organs presented in regulatory guidance were used. Each chemical concentration or dose is divided by the appropriate toxicity reference exposure level to calculate the HI. For compounds affecting the same toxicological endpoint, this ratio is summed. Where the total equals or exceeds 1, a health hazard is presumed to exist. For purposes of this assessment, the TAC of concern is DPM for which the OEHHA has defined a reference exposure limit for DPM of 5 micrograms per cubic meter ($\mu g/m^3$). The principal toxicological endpoint assumed in this assessment was through inhalation.

Cancer Risk and Non-Cancer Chronic Hazard Summary

Table 8 summarizes the cancer risk and HI results for unmitigated project construction at the Maximally Impacted Receptor (MIR), a single-family residence approximately 400 feet east of the project site. As shown in Table 8, $PM_{2.5}$ exhaust emissions generated during unmitigated project

construction would result in an incremental cancer risk of approximately 15 individuals per one million, which exceeds the BAAQMD's significance threshold of 10 individuals per one million. Therefore, MM AIR-1 would be required to reduce this impact to less than significant.

Table 8: Estimated Cancer Risks and Chronic Non-Cancer Hazards (Unmitigated)

Cancer Risk Scenario	Cancer Risk (risk per million)	Chronic Non-Cancer Hazard Index[1]	TAC Concentration (from AERMOD)[2]
Resident MIR	14.64	0.01	0.05
Thresholds of Significance	**10**	**1**	**0.3**
Exceeds Individual Source Threshold?	**Yes**	**No**	**No**

Notes:
AERMOD = American Meteorological Society/EPA Regulatory Model
DPM = diesel particulate matter
MIR = Maximally Impacted Sensitive Receptor
$PM_{2.5}$ = particulate matter 2.5 microns or less in diameter
TAC = toxic air contaminant
µg/m^3 = micrograms per cubic meter
[1] Cancer risk is identified by multiplying the risk sum from HARP2 by 1,000,000.
[2] Chronic non-cancer Hazard Index was estimated by dividing the annual DPM concentration (as $PM_{2.5}$ exhaust) by the DPM reference exposure level of 5 µg/m^3.
[3] TAC concentration taken from AERMOD is always at the MIR, a single-family residence located at 37.25916°N-121.77796°E.
Emissions Source: Appendix A.
Thresholds Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May. Website: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed April 15, 2021.

As shown in Table 8 above, project construction would result in DPM emissions that would exceed the BAAQMD cancer risk threshold for the residential MIR. As such, the proposed project would be required to implement MM AIR-1, which would require the use of Tier 4 Interim engines for all construction equipment equal to or greater than 50 horsepower. As shown in Table 9 below, the implementation of MM AIR-1 would ensure that construction DPM emissions generated by the proposed project would not result in an exceedance of BAAQMD cancer risk and chronic non-cancer HI thresholds. As such, this impact would be less than significant with implementation of MM AIR-1.

Table 9: Mitigated Cancer Risks and Chronic Non-Cancer Hazards (MM AIR-1)

Cancer Risk Scenario[1]	Cancer Risk (risk per million)	Chronic Non-Cancer Hazard Index[2]	TAC Concentration (from AERMOD)[3]
Resident MIR	1.50	<0.01	<0.01
Thresholds of Significance	**10**	**1**	**0.3**
Exceeds Individual Source Threshold?	**No**	**No**	**No**

Notes:
AERMOD = American Meteorological Society/EPA Regulatory Model
DPM = diesel particulate matter
MIR = Maximally Impacted Sensitive Receptor
$PM_{2.5}$ = particulate matter 2.5 microns or less in diameter
TAC = toxic air contaminant

Cancer Risk Scenario[1]	Cancer Risk (risk per million)	Chronic Non-Cancer Hazard Index[2]	TAC Concentration (from AERMOD)[3]
$\mu g/m^3$ = micrograms per cubic meter [1] Cancer risk is identified by multiplying the risk sum from HARP2 by 1,000,000. [2] Chronic non-cancer Hazard Index was estimated by dividing the annual DPM concentration (as $PM_{2.5}$ exhaust) by the DPM reference exposure level of 5 $\mu g/m^3$. [3] TAC concentration taken from AERMOD is always at the MIR, a single-family residence located at 37.25916°N - 121.77796°E. Emissions Source: Appendix A. Thresholds Source: Bay Area Air Quality Management District (BAAQMD). 2017. California Environmental Quality Act Air Quality Guidelines. May. Website: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en. Accessed April 15, 2021.			

As noted in Table 9 above, the proposed project's construction emissions would not exceed any applicable BAAQMD significance threshold after incorporating MM AIR-1. Therefore, project construction would not result in significant health impacts to nearby sensitive receptors with incorporation of the identified mitigation.

Cumulative Health Risk Assessment

The BAAQMD recommends assessing the potential cumulative impacts from sources of TACs within 1,000 feet of a project. As a result, a cumulative HRA was performed that examined the cumulative impacts of the proposed project's construction emissions and sources of TAC emissions within 1,000 feet of the project site. As previously discussed, the MIR was determined to be a single-family residence located immediately adjacent to the east of the project site.

- **Health Risks for Local Roadways.** The BAAQMD pre-calculated concentrations and the associated potential cancer risks and $PM_{2.5}$ concentration increases for each county within their jurisdiction for roadways that carry at least 30,000 average daily trips. For certain areas, the BAAQMD also includes local roadways that meet BAAQMD's "major roadway" criteria of 10,000 vehicles or 1,000 trucks per day. The latest available screening tool is in the form of a Geographic Information System (GIS) raster file.
- **Freeway Screening Analysis Tool**. The BAAQMD prepared a GIS tool that contains pre-estimated cancer risk and $PM_{2.5}$ concentration increases for highways within the Bay Area. The closest highway to the identified MIR is US 101, approximately 3,500 feet southwest of the MIR and the project site.
- **Stationary Source Risk and Hazard Screening Tools**. The BAAQMD prepared a web-based tool with the location of permitted stationary sources. For each emissions source, the BAAQMD provides conservative estimates of cancer risk and $PM_{2.5}$ concentrations. Based on information from the GIS tool, three BAAQMD-permitted stationary sources exist within 1,000 feet of the project site.[15]
- **Rail Screening Tools.** The BAAQMD prepared GIS tools that contains estimated cancer risks and $PM_{2.5}$ concentrations from railroad operations at any point within the Air Basin. The closest rail line to the project site is operated by Union Pacific Railroad, approximately 5,000 feet southwest from the project site.

[15] Bay Area Air Quality Management District (BAAQMD). 2018. Permitted Stationary Sources Risk and Hazards. Permitted Stationary Sources Risk and Hazards. Website: https://baaqmd.maps.arcgis.com/apps/webappviewer/index.html?id=2387ae674013413f987b1071715 daa65. Accessed December 16, 2021.

A cumulative HRA was performed that examined the cumulative impacts of the project's construction emissions and sources of TAC emissions within 1,000 feet of the project site.

The cumulative health risk results, including health risks from the existing stationary source, are summarized during project construction in Table 10. Cumulative health risk results shown therein are representative of the health risks to the residential MIR, which would experience the highest concentration of pollutants.

Table 10: Summary of the Cumulative Health Impacts at the MIR during Construction

Source	Source Name/Type	Distance from MIR[1] (feet)	Cancer Risk (per million)	Chronic Hazard Index	Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Project					
Mitigated Construction[2]	Diesel Construction Equipment	400	1.50	<0.01	<0.01
Existing Stationary Sources					
Commonwealth Central Credit Union Facility ID 23501	Generators	1,330	0.01	ND	ND
Suez Water Technologies and Solutions, Inc. Facility ID 23982	Generators	1,400	0.05	ND	ND
EGP 5855 San José LLC Facility ID 200646	Generators	1,900	0.03	ND	ND
Existing Roadways					
Existing Local Roadways		–	0.07	ND	<0.01
Existing Highways					
Existing Highways		3,500	11.70	ND	0.16
Existing Rail					
Existing Railways		5,000	0.67	ND	<0.01
Cumulative Health Risks					
Cumulative Total with Mitigated Project Construction			**14.03**	**<0.01**	**0.16**
BAAQMD Cumulative Thresholds of Significance			**100**	**10**	**0.8**
Threshold Exceedance?			**No**	**No**	**No**

Source	Source Name/Type	Distance from MIR[1] (feet)	Cancer Risk (per million)	Chronic Hazard Index	Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)
Notes: $\mu g/m^3$ = micrograms per cubic meter BAAQMD = Bay Area Air Quality Management District MIR = Maximally Impacted Sensitive Receptor N/A = no data available ND = No Data $PM_{2.5}$ = particulate matter 2.5 microns or less in diameter [1] The MIR is a single-family residence immediately adjacent to the east of the project site. [2] The mitigated project construction cancer risk and chronic non-cancer hazard estimates shown here incorporate the use of Tier 4 Final engines for all construction equipment rated for 25 horsepower or greater, as required with MM AIR-1. Source: Appendix A.					

As noted in Table 10 above, the cumulative impacts from mitigated project construction and existing sources of TACs would be less than the BAAQMD cumulative thresholds of significance. Therefore, because the proposed project would be implementing mitigation sufficient to reduce the proposed project's health risk impacts to below the BAAQMD's single-source thresholds, the proposed project would not be cumulatively considerable or result in a significant cumulative health risk impact.

Criterion 2: Project-Specific Operational Toxic Air Pollutants

The proposed project is a warehouse project and would not be a specific land use which may result in significant amounts of on-site sources of TACs during operation. According to the ARB's Air Quality and Land Use Handbook: A Community Health Perspective,[16] projects should avoid siting new sensitive receptors within 1,000 feet of warehouse type land uses that accommodates more than 100 trucks per day, more than 40 trucks with operating Transport Refrigeration Units (TRUs) per day, or where TRU unit operations exceed 300 hours per week. While the proposed project would not result in the introduction or siting of sensitive receptors, the ARB's Air Quality and Land Use Handbook provides these types of warehouse and trucking activities as circumstances that could result in potentially significant health impacts to sensitive receptors within 1,000 feet of these activities. As such, the proposed project is analyzed against the land use types and trucking activities provided in the ARB's Air Quality and Land Use Handbook to provide a screening determination of whether the proposed project could result in a potentially significant health impact to existing sensitive receptors within 1,000 feet of the project site during project operation, necessitating the preparation of site-specific air dispersion modeling.

As described previously, the proposed project would not include cold storage or TRUs. Further, the proposed project would result in 30 daily heavy-duty truck trips, which is described in Appendix A and included in the air quality modeling. As a result, the proposed project would not constitute a land use or activity described in the ARB's advisory recommendations and is considered to not result in conditions which could result in potentially significant health impacts to nearby sensitive receptors during operation. Other vehicle trips generated by the proposed project would principally consist of passenger vehicles and would not represent a substantial source of TAC emissions.

[16] California Air Resources Board (ARB). 2005. Air Quality and Land Use Handbook: A Community Health Perspective. April. Website: https://www.arb.ca.gov/ch/handbook.pdf. Accessed February 16, 2022.

Therefore, trucking activities and vehicle trips generated during project operation are not anticipated to result in a substantial TAC source which may significantly impact nearby sensitive receptors.

Operational TACs can also be emitted from stationary sources, such as metal smelting activity or petroleum refinement. An example of a substantial on-site source of TACs is a petroleum refinery or heavy industry type land use where a point source of TACs could be emitted, such as a smokestack. These sources of operational TACs would not be included in the proposed project, which would function primarily as a dry-goods storage and distribution facility. Furthermore, as discussed under Checklist Question2, project operational CO hotspot impact would be less than significant. Therefore, the proposed project would not result in a potentially significant impact related to exposing people to substantial concentrations of TAC during operation.

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

Less than significant impact. As stated in the BAAQMD 2017 Air Quality Guidelines, odors are generally regarded as an annoyance rather than a health hazard. The ability to detect odors varies considerably among the populations and is subjective. The BAAQMD does not have a recommended odor threshold for construction activities. However, the BAAQMD recommends operational screening criteria based on the distance between receptors and types of sources known to generate odors.

Construction

During construction activities, construction equipment exhaust and application of asphalt and architectural coatings would temporarily generate odors. Any construction-related odor emissions would be temporary and intermittent. Additionally, noxious odors would be confined to the immediate vicinity of the construction equipment. It is anticipated that by the time such emissions reach any sensitive receptor sites, they would be diluted to well below any level of air quality or odor concern. Therefore, construction odor impacts would be less than significant.

Operation

The proposed project would construct and operate a single warehouse building with associated office space. During operation of the proposed project, heavy-duty trucks would start up and idle as they unload and load goods at the building docking stations. The operation of heavy-duty trucks would result in odors from diesel fueled engines. However, these odors would not be concentrated near sensitive receptors because the trucks would only stop at designated truck parking or loading areas. In addition, any odors generated would dissipate into the atmosphere such that they would not be noticeable to nearby land uses or sensitive receptors. Operation of this type of project would likely not generate objectionable odors which may affect a substantial number of nearby receptors. The type of uses that are considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. Intermittent odors associated with truck exhaust would not expose receptors to substantial odors on- or off-site. As such, this impact would be less than significant.

Impact AIR-1

Construction emissions of DPM would exceed Bay Area Air Quality Management District's (BAAQMD) cancer risk threshold of 10 per million by 4.64, which would also be in conflict Criterion 1 of the 2017 Clean Air Plan (Reduce population exposure to unhealthy air and protect public health in the Bay Area).

Mitigation Measures

MM AIR-1 All off-road equipment equal to or greater than 50 horsepower shall meet either United States Environmental Protection Agency (EPA) or California Air Resources Board (ARB) Tier 4 Interim off-road emission standards or better during all construction activities. Prior to the issuance of any demolition, grading and/or building permits (whichever occurs first), the project applicant shall submit a construction management plan to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee for review and approval , and the equipment specifications shall be included on the project plans for verification, prior to issuance of any grading and building permits. The construction management plan shall be accompanied by a letter signed by an air quality specialist, verifying that the off-road equipment proposed for construction would comply with Tier 4 Interim off-road emission standards or better.. Off-road equipment descriptions and information included in the construction management plan may include but are not limited to equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.

4.3.3 - Conclusion

With adherence to Standard Permit Condition and implementation of MM AIR-1, air quality impacts would be less than significant.

4.4 - BIOLOGICAL RESOURCES

The findings for this section are based on the findings of the Biological Resource Assessment prepared for the project site by FirstCarbon Solutions (FCS) on June 1, 2021, and revised on February 18, 2022 (Appendix B).

4.4.1 - Environmental Setting

The project parcel lies within the southern portion of the Santa Clara Valley. The Santa Clara Valley is bounded by the Diablo Range on the northeast and by the Santa Cruz Mountains on the southwest, which separate the valley from the Pacific Ocean. Much of the valley is urbanized, although the far southern reaches remain more agrarian. The project parcel is surrounded by urban development to the south and west and borders open land to the north and east. Significant local landmarks include Coyote Creek, located approximately 0.5 mile to the west of the project site, and US-101, approximately 0.66 mile to the southwest. The eastern half of the project site is dominated by a steep hillside that is covered by non-native annual grassland, chaparral, and serpentine outcrops. A concrete canal is located at the top of the slope. The western half of the project site is flat and has been graded with some areas recolonized by ruderal vegetation.

Applicable Plans, Policies, and Regulations

Federal

Endangered Species Act

The United States Fish and Wildlife Service (USFWS) has jurisdiction over species listed as threatened or endangered under the federal Endangered Species Act. Section 9 of the Endangered Species Act protects listed species from "take," which is broadly defined as actions taken to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." The Endangered Species Act protects threatened and endangered plants and animals and their critical habitat. Candidate species are those proposed for listing; these species are usually treated by resource agencies as if they were actually listed during the environmental review process. Procedures for addressing impacts to federally listed species follow two principal pathways, both of which require consultation with the USFWS, which administers the Endangered Species Act for all terrestrial species. The first pathway is the Section 10(a) incidental take permit, which applies to situations where a non-federal government entity must resolve potential adverse impacts to species protected under the Endangered Species Act. The second pathway is Section 7 consultation, which applies to projects directly undertaken by a federal agency or private projects requiring a federal permit or approval.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) implements international treaties between the United States and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit.

Bald and Golden Eagle Protection Act

The golden eagle (*Aquila chrysaetos*) and bald eagle (*Haliaeetus leucocephalus*) are also afforded additional protection under the Eagle Protection Act, amended in 1973 (16 United States Code [USC] § 669, *et seq*.) and the Bald and Golden Eagle Protection Act (16 USC §§ 668–668d).

Clean Water Act

Section 404

The United States Army Corps of Engineers (USACE) administers Section 404 of the federal Clean Water Act (CWA), which regulates the discharge of dredge and fill material into waters of the United States.

As of the preparation of this report on December 28, 2021, the EPA and USACE (hereafter known as the agencies) are in receipt of the U.S. District Court for the District of Arizona's August 30, 2021, order vacating and remanding the Navigable Waters Protection Rule in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*. In light of this order, these agencies have halted implementation of the Navigable Waters Protection Rule and are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice.[17]

Therefore, since the agencies are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice, our analysis follows 40 Code of Federal Regulations 230.3(s) in effect under the pre-2015 regulatory regime, which defines "waters of the United States" as follows:

3. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
4. All interstate waters including interstate wetlands.
5. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
   A. Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
   B. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
   C. Which are used or could be used for industrial purposes by industries in interstate commerce.
6. All impoundments of waters otherwise defined as waters of the United States under this definition.
7. Tributaries of waters identified in paragraph(s) (1) through (4) of this section.
8. The territorial sea.

[17] United States Environmental Protection Agency (EPA). 2021. Website: https://www.epa.gov/wotus/current-implementation-waters-united-states. Accessed September 9, 2021.

9. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraph(s) (1) through (6) of this section; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 Code of Federal Regulations 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the EPA and/or USACE.

"Wetland" refers to areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and seasonal wetlands. Wetlands are considered jurisdictional if they fall under one of the categories of waters of the United States defined above. The USACE jurisdiction typically extends up to the ordinary high water mark (OHWM).

In general, a USACE permit must be obtained before placing fill in wetlands or other waters of the United States. The type of permit depends on the impacted acreage, the purpose of the proposed fill, and other factors.

Section 401

As stated in Section 401 of the CWA, "any applicant for a federal permit for activities that involve a discharge to waters of the State, shall provide the federal permitting agency a certification from the State in which the discharge is proposed that states that the discharge will comply with the applicable provisions under the federal Clean Water Act." Therefore, before the USACE will issue a Section 404 permit, applicants must apply for and receive a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB).

State

California Endangered Species Act

The State of California enacted the California Endangered Species Act (CESA) in 1984. CESA is similar to the Endangered Species Act but pertains to State-listed endangered and threatened species. CESA requires State agencies to consult with the California Department of Fish and Wildlife (CDFW) when preparing CEQA documents. The purpose is to ensure that the State lead agency actions do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of habitat essential to the continued existence of those species if there are reasonable and prudent alternatives available (Fish and Game Code [FGC] § 2080). CESA directs agencies to consult with the CDFW on projects or actions that could affect listed species, directs the CDFW to determine whether jeopardy would occur, and allows the CDFW to identify "reasonable and prudent alternatives" to the project consistent with conserving the species. CESA allows the CDFW to authorize exceptions to the State's prohibition against take of a listed species if the "take" of a listed species is incidental to carrying out an otherwise lawful project that has been approved under CEQA (FGC § 2081).

California Fish and Game Code

Under CESA, the CDFW has the responsibility for maintaining a list of endangered and threatened species (FGC § 2070). Fish and Game Code Sections 2050 through 2098 outline the protection provided to California's rare, endangered, and threatened species. Fish and Game Code Section 2080 prohibits the taking of plants and animals listed under the CESA. Fish and Game Code Section 2081 established an incidental take permit program for State-listed species. The CDFW maintains a list of "candidate species," which it formally notices as being under review for addition to the list of endangered or threatened species.

In addition, the Native Plant Protection Act of 1977 (NPPA) (FGC § 1900, *et seq*.) prohibits the taking, possessing, or sale within the State of any plants with a State designation of rare, threatened, or endangered (as defined by the CDFW). An exception to this prohibition in the NPPA allows landowners, under specified circumstances, to take listed plant species, provided that the owners first notify CDFW and give the agency at least 10 days to come and retrieve (and presumably replant) the plants before they are plowed under or otherwise destroyed. Fish and Game Code Section 1913 exempts from "take" prohibition "the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right of way." Project impacts to these species are not considered significant unless the species are known to have a high potential to occur within the area of disturbance associated with construction of the proposed project.

In addition to formal listing under the Endangered Species Act and CESA, some species receive additional consideration by the CDFW and local lead agencies during the CEQA process. Species that may be considered for review are those listed as a "Species of Special Concern." The CDFW maintains lists of "Species of Special Concern" that serve as species "watch lists." Species with this status may have limited distributions or limited populations, and/or the extent of their habitats has been reduced substantially, such that their populations may be threatened. Thus, their populations are monitored, and they may receive special attention during environmental review. While they do not have statutory protection, they may be considered rare under CEQA and specific protection measures may be warranted. In addition to Species of Special Concern, the CDFW Special Animals List identifies animals that are tracked by the California Natural Diversity Database (CNDDB) and may be potentially vulnerable but warrant no federal interest and no legal protection.[18]

Sensitive species that would qualify for listing but are not currently listed are afforded protection under CEQA. CEQA Guidelines Section 15065 (Mandatory Findings of Significance) requires that a substantial reduction in numbers of a rare or endangered species be considered a significant effect. CEQA Guidelines Section 15380 (Rare or Endangered Species) provides for the assessment of unlisted species as rare or endangered under CEQA if the species can be shown to meet the criteria for listing. Unlisted plant species on the California Native Plant Society (CNPS) List ranked 1A, 1B, and 2 would typically require evaluation under CEQA.

Fish and Game Code Sections 3500 to 5500 outline protection for fully protected species of mammals, birds, reptiles, amphibians, and fish. Species that are fully protected by these sections may not be taken or possessed at any time. The CDFW cannot issue permits or licenses that

[18] California Department of Fish and Wildlife (CDFW). 2021. CNDDB RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: https://map.dfg.ca.gov/rarefind/view/RareFind.aspx. Accessed May 2, 2021.

authorize the take of any fully protected species, except under certain circumstances such as scientific research and live capture and relocation of such species pursuant to a permit for the protection of livestock.

Under Fish and Game Code Section 3503.5, it is unlawful to take, possess, or destroy any birds in the orders of *Falconiformes* or *Strigiformes* (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. To comply with the requirements of CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any State-listed endangered or threatened species may be present in the project study area and determine whether the proposed project will have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may impact a candidate species.

Project-related impacts to species on the CESA endangered or threatened list would be considered significant. State-listed species are fully protected under the mandates of CESA. "Take" of protected species incidental to otherwise lawful management activities may be authorized under Fish and Game Code Section 206.591. Authorization from the CDFW would be in the form of an Incidental Take Permit.

Fish and Game Code Section 1602 requires any entity to notify the CDFW before beginning any activity that "may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake" or "deposit debris, waste, or other materials that could pass into any river, stream, or lake." "River, stream, or lake" includes waters that are episodic and perennial and ephemeral streams, desert washes, and watercourses with a subsurface flow. A Lake or Streambed Alteration Agreement will be required if the CDFW determines that project activities may substantially adversely affect fish or wildlife resources through alterations to a covered body of water.

California Porter-Cologne Water Quality Control Act

The RWQCB regulates actions that would involve "discharging waste, or proposing to discharge waste, within any region that could affect the water of the State" (Water Code § 13260(a)), pursuant to provisions of the Porter-Cologne Water Quality Act. "Waters of the State" are defined as "any surface water or groundwater, including saline waters, within the boundaries of the State" (Water Code § 13050(e)).

California Native Plant Society

The CNPS[19] maintains a rank of plant species native to California that has low population numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Vascular Plants of California. The following are the definitions of the CNPS ranks:

- **Rank 1A:** Plants presumed extirpated in California and either rare or extinct elsewhere
- **Rank 1B:** Plants rare, threatened, or endangered in California and elsewhere

[19] California Native Plant Society (CNPS). 2021. California Native Plant Society Rare and Endangered Plant Inventory. Website: http://www.rareplants.cnps.org/. Accessed May 2, 2021.

- **Rank 2A:** Plants presumed extirpated in California but common elsewhere
- **Rank 2B:** Plants rare, threatened, or endangered in California but more common elsewhere
- **Rank 3:** Plants about which more information is needed
- **Rank 4:** Watch List: Plants of limited distribution

Potential impacts to populations of CNPS ranked plants receive consideration under CEQA review. All plants appearing on the CNPS List ranked 1 or 2 are considered to meet the CEQA Guidelines Section 15380 criteria. Rank 3 and 4 plants do not automatically meet this definition. Rank 4 plants do not clearly meet CEQA standards and thresholds for impact considerations. Nevertheless, some level of CEQA review is justified for California Rare Plant Rank (CRPR) 4 taxa, and under some circumstances, a full impact analysis is warranted.[20] Taxa that can be shown to meet the criteria for endangered, rare, or threatened status under CEQA Section 15380(d) or that can be shown to be regionally rare or unique as defined in CEQA Section 15125(c) must be fully analyzed in a CEQA document. Some circumstances, such as local rarity, having occurrences peripheral to the taxon's distribution, or having occurrences on unusual substrates or rare and declining habitats, provide justification for treating some CRPR 4 taxa occurrences as regionally rare or unique. One limitation to fully analyzing impacts on CRPR 4 taxa is the difficulty in obtaining current data on the number and condition of the occurrences.[21]

Regional and Local

Santa Clara Valley Habitat Plan

The SCVHP[22] provides a framework for promoting the protection and recovery of natural resources, including endangered species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities. The purpose of the SCVHP is to protect, enhance, and restore natural resources in specific areas of Santa Clara County and contribute to the recovery of endangered species. The SCVHP evaluates natural-resource impacts and mitigation requirements comprehensively in a way that is more efficient and effective for at-risk species and their essential habitats. The SCVHP was adopted by the City of San José on January 29, 2013.

Regional General Permit

On January 28, 2021, the USACE, San Francisco District, issued a Regional General Permit (RGP) to the City of San José, City of Morgan Hill, City of Gilroy, County of Santa Clara, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, and the Santa Clara Valley Habitat Agency, for impacts to waters of the United States associated with many projects covered by the SCVHP.[23]

This permit provides a framework for integrating and streamlining waters permitting under Section 404 of the CWA with the endangered species permitting already in place under the Habitat Plan. The

[20] California Native Plant Society (CNPS). 2020. Technical Memorandum: Considerations for Including CRPR 4 Plant Taxa in CEQA Biological Resource Impact Analysis. Sacramento, CA. 21 January. Website: https://www.cnps.org/wp-content/uploads/2020/02/crpr4_technical_memo.pdf. Accessed September 24, 2021.

[21] California Native Plant Society (CNPS). 2020. Considerations for Including CRPR 4 Plant Taxa in CEQA Biological. Resource Impact Analysis. Sacramento, CA. 21 January 2020.

[22] Santa Clara Valley Habitat Agency. 2012. Santa Clara Valley Habitat Plan. August. Website: https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan. Accessed September 24, 2021.

[23] County of Santa Clara Department of Planning. 2015. Santa Clara Valley Habitat Plan Conditions Implementation Guide. August. Prepared for Santa Clara Valley Habitat Agency, Morgan Hill, CA. Website: https://scv-habitatagency.org/DocumentCenter/View/547/Conditions-Implementation-Guide-. Accessed September 24, 2021.

RGP covers 17 categories of activities, setting thresholds for impacts that range from less than 0.1 acre to 0.5 acre and providing an expedited process for reviewing and processing project-specific waters permits. The RGP helps to ensure consistent and streamlined waters permitting for projects covered by the SCVHP that have impacts to waters of the United States. The 5-year permit will expire on January 28, 2026, at which point it may be reissued if in good standing.

Envision San José 2040 General Plan

The General Plan includes the following policies applicable to all development projects in San José.

Envision San José 2040 General Plan Relevant Biological Policies

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

City of San José Municipal Code

San José Municipal Code Chapter 13.32: Tree Removal Controls,[24] requires the applicant to obtain a Tree Removal Permit prior to the removal or relocation of ordinance-sized trees. The San José Municipal Code identifies ordinance-size trees as trees with a circumference of 38 inches or more measured at a height 54-inches above natural grade slope.[25] Further, on multi-family lots, a Tree Removal Permit is required to remove a tree of any size. Additionally, it sets forth protections given to heritage trees, trees given additional protections due to their special significance to the community because of their size, history, unusual species, or unique quality.

[24] San José Municipal Code. 2021. Chapter 13.32 - TREE REMOVAL CONTROLS. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT13STSIPUPL_CH13.32TRRECO_13.32.020DE. Accessed May 2, 2021.

[25] City of San José. 2021. Tree Removal Permits. Webs site: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/tree-removal-permits. Accessed May 2, 2021.

4.4.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	☐	☒	☐	☐
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	☐	☒	☐	☐
3. Have a substantial adverse effect on State or federally protected wetlands federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
4. 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 wildlife nursery sites?	☐	☐	☒	☐
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☒	☐
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	☐	☒	☐	☐

Impact Discussion

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

Less than significant impact with mitigation incorporated.

Special-status Plants

The 2021 Biological Resources Assessment identifies 58 special-status plant species and CNPS sensitive species (Ranks 1-4) that have been recorded within the *San José East, California,*

Topographic Quadrangle and the eight surrounding quadrangles by the CNDDB and California Native Plant Society Electronic Inventory (CNPSEI). Sixteen special-status plants that have been recorded within a 5-mile radius of the project site.

Protocol-level rare plant surveys were conducted in spring 2021 by a qualified Botanist familiar with the special-status plant species of the Santa Clara Valley and specifically the greater Coyote Ridge area. The protocol-level rare plant surveys confirmed the location and extent of two special-status plant species on the project parcel, as shown on Figure 11 and discussed below. No other special-status plant species were observed during the appropriately timed protocol-level botanical surveys and are therefore assumed absent from the site.

Santa Clara Valley Dudleya

Santa Clara Valley dudleya (*Dudleya abramsii ssp. Setchellii*) is listed as endangered under the Endangered Species Act, and ranked by the CDFW and CNPS as "rare, threatened, or endangered in California and elsewhere; seriously threatened in California" (CNPS ranked 1B.1). It is only found in Santa Clara County in the vicinity of Coyote Valley, from San José south about 20 miles to San Martin, at elevations of 300–900 feet and is restricted to rocky outcrops in serpentine grassland and oak woodland.

Potentially suitable habitat in the form of serpentine outcrops is located on the eastern slopes within the project parcel, and on adjacent parcels. However, protocol-level floristic surveys conducted in spring 2021 detected this species only on two closely proximate rock outcrops in the southeastern corner of the project parcel (Figure 11). Approximately seven individual plants of Santa Clara Valley dudleya persist in relatively good conditions, including flowering stalks and robust rosettes.

Hall's Bush-mallow

Hall's bush-mallow (*Malacothamnus hallii*) is a dicot shrub that is native to California, and endemic (limited) to California, and listed as rare, threatened, or endangered in California and elsewhere (CNPS ranked 1B.2). It is currently not a covered species under the SCVHP. Hall's bush-mallow is typically associated with open chaparral and approximately 12 individuals were found on the project parcel within the central serpentine rock outcrop, which is almost entirely dominated by chamise (Figure 11). This population is recorded in the CNDDB (Element Occurrence Index 68216). However, the population observed in 2021 has shrunk considerably from the 31 plants reported for this location in 2009.

Direct Impacts to Special-Status Plants

As shown on Figure 11 the project footprint and disturbance areas would not affect any serpentine outcrop or chaparral habitat or occurrences of the special-status plant species Santa Clara Valley dudleya and Hall's bush-mallow. However, construction equipment and personnel could potentially unknowingly enter sensitive serpentine outcrop areas, including areas with occurrences of special-status plant species, and could cause damage through trampling, vegetation removal for access, staging, material storage or other temporary construction activities. Therefore, the project applicant shall implement MM BIO-1 which would establish a SHPA for all sensitive serpentine habitats and special-status plant species occurrences as shown on Figure 11. Implementation of MM BIO-1 would reduce any potential direct project-related adverse effects to special-status plant species to a less

than significant level and would also satisfy SCVHP permit application "Condition 20. Avoid and Minimize Impacts to Covered Plant Occurrences."

Indirect Impacts to Special-Status Plants Through Increased Nitrogen Deposition

Per the analysis presented in the SCVHP, indirect adverse effects to Santa Clara Valley dudleya may occur due to increased project-related nitrogen deposition. Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the SCVHP area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species, potentially displacing serpentine-dependent species. Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation.

Mitigation for the impacts of nitrogen deposition upon serpentine habitat can be correlated to the amount of new vehicle trips that a project is expected to generate. The number of additional vehicle trips generated by this proposed project is estimated at 201 trips per day. However, City policy would require the project applicant to obtain coverage for the proposed project under the SCVHP, including potential payment of a nitrogen deposition mitigation fee, which is intended to enable the Habitat Agency to purchase and manage conservation land containing serpentine habitat. With adherence to Standard Permit Condition, below, indirect impacts to serpentine habitat (and serpentine-dependent special-status plant species) would be reduced to a less than significant level.

Special-Status Wildlife

The 2021 Biological Resources Assessment identifies 40 federal and State-listed threatened and/or endangered wildlife species and State Species of Special Concern that have the potential to occur within the *San José East, California,* Topographic Quadrangles, including 21 special-status wildlife species that have been recorded within a 5-mile radius of the project site. The following species were determined to have potential to occur on-site and are discussed below.

Bay Checkerspot Butterfly

The Bay checkerspot butterfly (*Euphydryas editha bayensis*) is listed as threatened under the Endangered Species Act and Critical Habitat was designated for this species on the Coyote Ridge/Silver Hills area, its western boundary partially overlapping with the eastern portion of the project parcel; however, Critical Habitat is not located within the proposed development footprint (Figure 11).

The development of the proposed project could potentially impact Bay checkerspot butterfly by impacting its host plants and butterfly larvae/caterpillars if present. Three patches of California plantain (*Plantago erecta*) are located within the development footprint, which are approximately 500, 300, and 200 square feet in size (Figure 11). However, no robust secondary (required) host plant population is present on the parcel.

Indirect adverse effects to Bay checkerspot butterfly host plants may occur due to increased project-related nitrogen deposition that has the potential to reduce availability of serpentine-dependent host plants, as stated above. The Bay checkerspot butterfly is a covered species under the SCVHP, and mitigation of potential impacts to this species should follow the conditions determined during

the SCVHP permit application process. Compliance with the SCVHP measures related to this species (MM BIO-1), includes locating the project footprint as far from away as the highest quality serpentine habitat as feasible, which the project satisfies.

To provide circulation and parking, the project site is utilizing the flat portions of the site and maintaining setbacks as allowed by zoning code. The proposed project is located on the flat portions of the project site, away from the serpentine habitat. The proposed building is pushed to the south and is set back from an existing fault line running east to west across the project site (the Piercy Fault, which traverses the project site, is shown in Appendix D, Geotechnical Investigation). As shown in Figure 11, the proposed project would maintain an approximately 50-foot buffer (Development Area) around the project footprint, as required by the SCVHP. The purpose of this buffer is to limit impacts to adjacent habitats during construction. Therefore, impacts to the Bay checkerspot butterfly would be reduced to a less than significant level.

Burrowing Owl

Burrowing owl (*Athene cunicularia*), a California Species of Special Concern, was assessed and determined by FCS to have a moderate potential to occur on the project site due the presence of suitable grassland and marginally suitable ruderal habitat. Though no burrowing owl or signs of burrowing owl were observed on-site, and the species is currently not expected to breed or nest on the project site due to the site's low-quality habitat, they may use the site for short periods during migratory movements through the area.

Burrowing owl is a covered species under the SCVHP. Although the project site does not lie within a SCVHP burrowing owl survey or fee zone, FCS Biologists determined that nonetheless this species has the potential to occur due to the presence of suitable habitat. Mitigation of potential impacts to this species should follow the conditions determined during the SCVHP permit application process, which at a minimum include pre-construction surveys and, if found, notification to the CDFW and avoidance of occupied nests and burrows. With compliance with the SCVHP measures to protect and/or mitigate for this species (MM BIO-2), potential project-related impacts to burrowing owl would be reduced to a less than significant level.

Nesting Birds

Trees along the parcel boundary and within disturbance distance could provide suitable nesting habitat for a variety of native, migratory, or other bird species, including special-status species such as white-tailed kite (*Elanus leucurus*) and Swainson's hawk (*Buteo swainsoni*). Relatively undisturbed grassland and barren areas of the project parcel provide potential nesting opportunities for ground nesting birds. Construction activities that occur during the avian nesting season (generally February 15 to August 31) could significantly disturb or destroy nesting sites for bird species protected under the Fish and Game Code or MBTA. The removal of trees during the nesting season could result in direct harm to nesting birds, while noise, light, and other man-made disturbances may cause nesting birds to prematurely abandon their nests. Therefore, the applicant shall implement MM BIO-3 and follow Standard Permit Condition below, both of which describe avoidance and minimization measures to ensure that project impacts on nesting birds are reduced to a less than significant level.

City Standard Permit Condition

Santa Clara Valley Habitat Plan

The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the SCVHP Coverage Screening Form (https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=) to the Director of Planning, Building, and Code Enforcement (PBCE) or the 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 www.scv-habitatplan.org.

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

Less than significant impact with mitigation incorporated. Several serpentine outcrops, covering 1.58 acres, are located on the eastern hill slope on the southern portion of the parcel as shown on Figure 11. The serpentine outcrops on the southern side of the parcel support serpentine endemics and serpentine-facultative species and are best described as the SCVHP-defined vegetation type Serpentine Chaparral. The specific area occupied by this community appears disturbed by livestock trampling and does not support a typical serpentine-obligate plant community. The SCVHP considers serpentine plant communities to be sensitive and requires a development fee to be paid for projects within Serpentine Fee Zones which are shown in the SCVHP Geobrowser.

As shown on Figure 11, the project footprint and disturbance areas would not directly affect any serpentine outcrop or chaparral habitat, or sensitive communities associated with serpentine habitat. However, construction equipment and personnel could potentially unknowingly enter sensitive serpentine outcrop areas, including areas with occurrences of special-status plant species, and could cause damage through trampling, vegetation removal for access, staging, material storage or other temporary construction activities. Therefore, the project applicant shall implement MM BIO-1 which would establish a SHPA for all sensitive serpentine habitats. Therefore, any direct impacts would be reduced to a less than significant level.

Indirect adverse effects to serpentine habitats may occur due to increased project-related nitrogen deposition as discussed in Checklist Question 1 in this section. City policy would require the applicant to cover the proposed project under the SCVHP, including potential payment of a nitrogen deposition mitigation fee. With implementation of MM BIO-1 and the Standard Permit Condition discussed in Checklist Question 1 above, indirect impacts to serpentine habitat (and serpentine-dependent special-status plant species) would be reduced to a less than significant level.

3) Would the project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No impact. The abandoned concrete canal located on the hillside that rises along the eastern half of the project site may potentially be under the jurisdiction of the RWQCB as a water of the State, if the current conditions of the canal or future modifications to it have the potential to affect water quality

and/or aquatic or wetland habitats of Coyote Creek (Figure 11). FCS proposes that the canal may be jurisdictional as a water of the United States, since the USACE and EPA have halted implementation of the Navigable Waters Protection Rule and are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice as of August 30, 2021.[26] A shallow swale extends west from the hillside into the project parcel but terminates upon reaching a terrace above the graded portion of the project parcel. No hydrological connection to a downstream feature is present, and no evidence of hydrology, concentrated flow, hydrophytic soil, plants or other hydrology or wetland indicators were present; therefore, the swale is not considered an aquatic resource. The proposed project footprint would avoid any directs impacts to both drainage features, and construction of the proposed project would have no indirect impacts either due to the fact that the drainages lie upslope of the project footprint. Therefore, there is no potential impacts from sediments and other pollutants that may result from project construction to enter these drainage features and reduce water quality. Thus, the RGP issued by the USACE San Francisco District on January 28, 2021[27] would not be applicable to this proposed project as the proposed project would not impact any potentially jurisdictional waters of the United State or State.

4) 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 wildlife nursery sites?

Less than significant impact . The majority of the site consists of disturbed/ruderal habitat, non-native annual grassland and serpentine outcrops and does not contain habitat features such as riparian corridors or waterways that could function as wildlife corridors. The project site is also surrounded by roads and highways, as well as urban development to the north, south and west that limit wildlife movement. The undisturbed habitat present on the eastern hillside of the parcel would be the only entrance to the site for terrestrial wildlife. However, the construction of the proposed project would avoid the hillside that covers much of the eastern half of the parcel. Coyote Creek lies approximately 0.5 mile southwest of the project site and is a major local wildlife movement corridor. Although the proposed project would prevent movement through the project site, existing development between the project site and Coyote Creek already impedes wildlife movement from the hillside to Coyote Creek. Thus, it is unlikely that any dispersing wildlife would traverse the approximately 0.5 mile distance through existing urban development and cross major roadways to reach Coyote Creek. Therefore, the proposed project would have a less than significant impact on the movement of wildlife.

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

Less than significant impact. One or more of the approximately eight non-native Peruvian pepper trees located along or outside the northern project parcel boundary may qualify as a "protected tree" by meeting the City's size requirements as defined in Chapter 13.32 of the San José Municipal Code. The City defines an ordinance-sized tree is either a single trunk or stem with a circumference

[26] United States Environmental Protection Agency (EPA). 2021. Website: https://www.epa.gov/wotus/current-implementation-waters-united-states. Accessed September 9, 2021.

[27] Santa Clara Valley Habitat Agency. 2021. Regional General Permit. Website: https://www.scv-habitatagency.org/190/Regional-General-Permit/. Accessed December 27, 2021.

of at least 38 inches measured at a height 54 inches above natural grade slope, or multiple trunks where the combined circumferences of each trunk at 54 inches above natural grade slope add up to at least 38 inches.

If any ordinance-sized tree(s) must be removed to accommodate the proposed project, compliance with the City Standard Permit Conditions is required. Per the City's Standard Permit Condition shown below, any requested tree removals would be evaluated under the proposed Site Development permit. Compliance with the City's Standard Permit Conditions would reduce this impact to less than significant.

The proposed project would result in removal of five trees including three Peruvian pepper (*Schinus moll*e) trees and two tree-of-heaven (*Ailanthus altissima*) However, the proposed project would plant a total of 72 trees: 66 trees would be placed on-site, and six trees are proposed off-site. The replacement ratio would be approximately 14:1, exceeding the City's requirement of replacement ratios between 1:1 and 5:1 identified in the Standard Permit Condition below. All replacement trees being proposed are a minimum of 15-gallon. The tree diameters, species, and locations shall be identified/measured in the planning permit prior to issuance of a Tree Removal Permit in accordance with the Standard Permit Condition listed below.

In addition, the applicant shall implement the City's Tree Protection Standards to protect existing trees to remain on-site from potential damage related to construction activities.

City Standard Permit Conditions

Tree Removal

Trees removed for the project shall be replaced at ratios required by the City, as stated in Table 11 below, as amended:

Table 11: Tree Replacement Ratios

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

Notes:
x:x = tree replacement to tree loss ratio
Trees greater than or equal to 38-inch circumference 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 tree equals two 15-gallon trees.
* Single-family and two-dwelling properties may be mitigated at a 1:1 ratio.

The species of trees to be planted shall be determined in consultation with the City Arborist and the Director of PBCE.

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 PBCE, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution. The City shall use the Off-site Tree Replacement Fee(s) to plant trees at alternative sites.

Tree Protection Standards

The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the grading permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of PBCE. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

6) 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?

Less than significant impact with mitigation incorporated. The proposed project has the potential to impact several SCVHP covered plant and wildlife species and associated habitats, including Santa Clara Valley dudleya, Bay checkerspot butterfly, burrowing owl, and serpentine habitats. To reduce potential project-related impacts to biological resources covered under the SCVHP, including serpentine habitat and covered special-status plant and wildlife species, the project applicant shall comply with all applicable SCVHP conditions and pay all applicable fees as described in the City's Standard Permit Condition related to compliance with SCVHP (described in Checklist Question 1, above) and would implement MM BIO-1 and MM BIO-2 to protect serpentine habitat and western burrowing owl, respectively. With implementation of Standard Permit Conditions and MM BIO-1 and MM BIO-2, the proposed project would be in compliance with the SCVHP and impacts would be reduced to less than significant.

Impact BIO-1

The proposed project has the potential to impact serpentine habitat and associated species , including Santa Clara Valley dudleya and Bay checkerspot butterfly.

Mitigation Measures

MM BIO-1 Establish Serpentine Habitat and Plant Protection Area

In accordance with Conditions 10 (Fuel Buffer), 13 (Serpentine and Associated Covered Species Avoidance and Minimization) and 20 (Avoid and Minimize Impacts to Covered Plant Occurrences) of the Santa Clara Valley Habitat Plan (SCVHP), the proposed project shall avoid all serpentine habitats and covered special-status plants present on-site.

Prior to the start of any ground-disturbing construction activity, a Serpentine Habitat Protection Area (SHPA) shall be established covering the areas identified as Serpentine Outcrop and Serpentine Chaparral by a qualified Biologist. The boundary of the SHPA shall include a minimum buffer area of 30 feet from the outer boundary of all sensitive serpentine outcrops on the project parcel, or a larger buffer as defined by the qualified Biologist. In compliance with Condition 20, an approximately 4-foot-tall high-visibility fence at the SHPA boundary shall be erected under the supervision of a qualified Biologist to ensure proper location and prevent damage to plants during installation. Fencing shall be installed before any site preparation or construction work begins and shall remain in place for the duration of construction. Construction personnel shall be prohibited from entering these areas (the exclusion zone) for the duration of project construction.. After completion of the project, the fence shall be removed. The SHPA shall be shown on the project plans, in addition to the requirement for qualified Biologist supervision for fence erection, to be verified by the Director of PBCE or the Director's designee prior to issuance of a demolition or grading permit, whichever occurs first.

Impact BIO-2

Construction of the proposed project has potential to impact western burrowing owl due to the presence of suitable habitat on the project site.

MM BIO-2 Pre-construction Surveys and Avoidance of Western Burrowing Owl

A burrowing owl survey shall be conducted within 2 calendar days prior to ground disturbance, following the survey methods described in Condition 15 (Western Burrowing Owl) of the SCVHP, and the results of these surveys shall be sent to the Director of PBCE, or the Director's designee. If evidence of burrowing owl is detected during the pre-construction surveys, then CDFW shall be notified.

If the pre-construction surveys detect evidence of burrowing owl on-site, then the project applicant shall implement the following avoidance measures:

1. Avoid occupied nests within a 250-foot buffer during breeding season (February 1 through August 31, inclusive) or develop a monitoring plan approved by the CDFW that allows activity within 250-foot buffer.
2. Avoid occupied burrows during nonbreeding season (September 1 through January 31, inclusive) or meet requirements in Condition 15 of the SCVHP if allowing activity within a 250-foot buffer.

If evidence of burrowing owl is detected on-site, the applicant shall develop and submit a construction monitoring plan to the City's Director of PBCE, or the Director's designee, for review and approval. The construction monitoring plan shall include the following construction monitoring measures:

1. Establish 250-foot buffer zones around active nests.
2. Establish 250-foot buffer zones around occupied burrows during nonbreeding season if applicable.
3. Implement construction monitoring consistent with monitoring plan or requirements if activities occur within the buffer.
4. Construction or maintenance personnel must participate in avoidance training.

If required based on surveys, buffers established by a qualified Biologist in consultation with CDFW shall be shown on plans.

Impact BIO-3

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

MM BIO-3 Impacts to Nesting Birds

The proposed project shall implement the following measures to avoid impacts to nesting migratory birds:

- **Avoidance:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1 through August 31 (inclusive), as amended.
- **Nesting Bird Surveys:** If demolition and construction activities cannot be scheduled to occur between September 1 and January 31 (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 1 through April 30 inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive), unless a shorter pre-construction survey is

determined to be appropriate based on the presence of a species with a shorter nesting period, such as yellow warblers. During this survey, the Ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

- **Buffer Zones:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the Ornithologist, in consultation with the 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. The no-disturbance buffer shall remain in place until the Biologist determines the nest is no longer active or the nesting season ends. If construction ceases for 2 days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.
- **Reporting:** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the Ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of PBCE or the Director's designee, prior to issuance of any tree removal, demolition, or grading permits, whichever occurs first.

4.4.3 - Conclusion

With adherence to Standard Permit Conditions and implementation of MM BIO-1, MM BIO-2, and MM BIO-3, impacts to biological resources would be less than significant.

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Source: ESRI Aerial Imagery.

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250 125 0 250 Feet

Figure 11
Land Cover and Vegetation

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4.5 - CULTURAL AND TRIBAL CULTURAL RESOURCES

This section describes the existing cultural resources setting and potential effects from project implementation on the project site and its surrounding area. The following discussion is based on the Phase I Cultural Resources Assessment (Phase I CRA) prepared by FCS on June 11, 2021, and revised on January 5, 2022, a records search at the Northwest Information Center (NWIC) and contact with the Native American Heritage Commission (NAHC). The Phase I CRA and other supporting information are provided in confidential Appendix C, which will not be available for public distribution, but which may be requested in writing by those with appropriate credentials.

4.5.1 - Environmental Setting

The property is currently vacant with no existing structures or buildings on-site. Land cover types observed on-site include Graded–Barren and Fallow/Ruderal, Non-native Annual Grassland, and Serpentine Outcrops and Serpentine Chaparral. The project site appears to have been partially graded, and is relatively flat, except for the northeast area where there is a northwest-southeast trending ridge. Serpentine bedrock is exposed in places at the base of the hill, adjacent to the proposed project site along the northeastern perimeter. Utility boxes for PG&E, storm drain fixtures, PVC standpipes that presumably contain other utilities, four fire hydrants, and fire suppression fixtures are also located on the project site. Three power poles are located near the central portion of the site. The project site appears to have been used as an orchard prior to 1940. Since that time, it has been vacant.

The project site is situated in proximity to Coyote Creek, which lies approximately 0.5 mile southwest of the project site. According to a geological map and paleontological report conducted for the project area by Consulting Paleontologist, Kenneth Finger, PhD, on behalf of FCS, the surface of the project site consists almost entirely of Holocene fan deposits.[28]

Applicable Plans, Policies, and Regulations

National Historic Preservation Act

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological or cultural significance.

The NRHP significance criteria are listed below, and include districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and are:

A. Associated with events that have made a significant contribution to the broad patterns of our history; or

B. Associated with the lives of significant persons in our past; or

[28] Finger, Kenneth L., PhD. 2021. Paleontological Records Search : Piercy Road Industrial Warehouse Project, City of San José, Santa Clara County. September 17.

C. Embodiment of distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. Having yielded or may be likely to yield, information important in history or prehistory.

For a resource to be eligible for listing, it also must retain integrity of those features necessary to convey its significance in terms of: (1) location, (2) design, (3) setting, (4) materials, (5) workmanship, (6) feeling, and (7) association. CEQA requires evaluation of project effects on properties that are listed in or eligible for listing in the NRHP.

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code [PRC], § 5024.1(a)). The CRHR is administered through the California Office of Historic Preservation (OHP), which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the CRHR (PRC § 5024.1(d)(1)).

State Regulations Regarding Cultural Resources

Archaeological and historical sites are protected by several State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 § 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods. Both State law and County of Santa Clara Ordinance Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the NAHC and a "most likely descendant" must also be notified.

Tribal Cultural Resources

A Tribal Cultural Resource (TCR) can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. It also must be either on or eligible for the CRHR, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a TCR. The Public Resources Code requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any NAHC-listed tribe, to identify TCRs that may be subject to significant impacts by a project. Where a project may have a significant impact on a TCR, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a TCR or when it is concluded that agreement cannot be reached.

Historic Preservation Ordinance

The City's Historic Preservation Ordinance is under San José Municipal Code Section 13.48.110, which sets forth factors that may be considered in order to determine whether a property qualifies as a Candidate City Landmark. Based on the ordinance, City Landmarks have special historical, architectural, cultural, aesthetic, or engineering interest or value of a historical nature, and designation as a landmark conforms to the goals and policies of the General Plan. In making such findings, the following factors, among other relevant factors, are considered with respect to the proposed landmark:

1. Its character, interest or value as part of the local, regional, State or national history, heritage or culture;
2. Its location as a site of a significant historic event;
3. Its identification with a person or persons who significantly contributed to the local, regional, State or national culture and history;
4. Its exemplification of the cultural, economic, social or historic heritage of the City of San José;
5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of San José; and
8. Its embodiment of elements of architectural or engineering design, detail, materials, or craftsmanship which represents a significant architectural innovation or which is unique.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to cultural resources and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Cultural Resource Policies

Policies	Description
Policy ER-10.1	For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.
Policy ER-10.2	Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable State laws shall be enforced.

Envision San José 2040 General Plan Relevant Cultural Resource Policies

Policies	Description
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 prehistoric resources.
Policy LU-13.1	Preserve the integrity and fabric of candidate or designated Historic Districts.
Policy LU-13.2	Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.
Policy LU-10.4	Require public and private development projects to conform to the adopted City Council Policy on the Preservation of Historic Landmarks.
Policy LU-13.5	Evaluate areas with a concentration of historically and/or architecturally significant buildings, structures, or sites and, if qualified, preserve them through the creation of Historic Districts.
Policy LU-13.6	Ensure modifications to candidate or designated landmark buildings or structures conform to the Secretary of the Interior's Standards for Treatment of Historic Properties and/or appropriate State of California requirements regarding historic buildings and/or structures, including the California Historical Building Code.
Policy LU-10.7	Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
Policy LU-13.8	Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.
Policy LU-13.15	Implement City, State, and Federal historic preservation laws, regulations, and codes to ensure the adequate protection of historic resources.

4.5.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?	☐	☐	☒	☐
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	☐	☒	☐	☐
3. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐
4. 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), or	☐	☒	☐	☐
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.	☐	☒	☐	☐

Environmental Evaluation

This section describes the existing cultural resources setting and potential effects from project implementation on the project site and its surrounding area. The Phase I CRA and other supporting information are provided in confidential Appendix C, which will not be available for public distribution but which may be requested in writing by those with appropriate credentials.

Cultural Background Setting

The following is a brief summary of the prehistoric and historic background of the general project area, which provides context to understand the relevance of cultural resources that may be located in proximity to the project site. This section is not intended to be a comprehensive review of the current resources available; rather, it serves as a general overview. Unless otherwise stated, the

following is taken from the Phase I Cultural Resources Assessment prepared for the project by FCS in January of 2022.[29]

The Ohlone

At the time of European contact in the 18th century, the San José area was occupied by the Ohlone Tribe of California Native Americans. The Ohlone group designates a linguistic family consisting of eight different yet related languages. The eight Ohlone languages were quite different from one another, with each language being related to its geographically contiguous neighbors.

The arrival of Ohlone groups into the Bay Area appears to be temporally consistent with the appearance of the Late Period artifact assemblage in the archaeological record, as documented at sites such as the Emeryville Shellmound and the Ellis Landing Shellmound. It is probable that the Ohlone moved south and west from the Delta region of the San Joaquin-Sacramento River region into the Bay Area. The tribal group that most likely occupied the project area is the Chochenyo language group, whose territory extended from the southern end of the Carquinez Strait south to Mission San José, or the Tamyen, who were centered in the south of San Francisco Bay and lower Santa Clara Valley.

The various Ohlone tribes subsisted as hunter-gatherers and relied on local terrestrial and marine flora and fauna for subsistence. The predominant plant food source was the acorn, but they also exploited a wide range of other plants, including various seeds, buckeye, berries, and roots. Protein sources included grizzly bear, elk, sea lions, antelope, and black-tailed deer as well as smaller mammals such as raccoon, brush rabbit, ground squirrels, and wood rats. Waterfowl, including Canadian geese, mallards, green-winged teal, and American widgeon, were captured in nets using decoys to attract them. Fish also played an important role in the Chochenyo diet and included steelhead, salmon, and sturgeon.

The Ohlone constructed watercraft from tule reeds and possessed bow and arrow technology. They fashioned blankets from sea otter pelts, fabricated basketry from twined reeds of various types, and assembled a variety of stone and bone tools in their assemblages. Ohlone villages typically consisted of domed dwelling structures, communal sweathouses, dance enclosures, and assembly houses constructed from thatched tule reeds and a combination of wild grasses, wild alfalfa, and ferns.

The Ohlone were politically organized into autonomous tribelets that had distinct cultural territories. Individual tribelets contained one or more villages with a number of seasonal camps for resource procurement within the tribelet territory. The tribelet chief could be either male or female, and the position was inherited patrilineally, but approval of the community was required. The tribelet chief and council were essentially advisers to the community and were responsible for feeding visitors, directing hunting and fishing expeditions, ceremonial activities, and warfare on neighboring tribelets.

The first European contact with the Ohlone was probably in 1602, when Sebastian Vizcaíno's expedition moored in Monterey. The estimated Ohlone population in 1770—when the first mission

[29] FirstCarbon Solutions (FCS). 2022. Phase I Cultural Resources Assessment for the San José 455 Piercy Road Industrial Warehouse Project: City of San José, Santa Clara County, California. January 5, 2022.

was established in Ohlone territory—was approximately 10,000. By 1832, the population had declined to fewer than 2,000, mainly due to diseases introduced by the European explorers and settlers. When the Spanish mission system rapidly expanded across California, the Ohlone traditional way of life was irreversibly altered. The precontact hunter-gatherer subsistence economy was replaced by an agricultural economy, and the Spanish missionaries prohibited traditional social activities. After secularization of the missions between 1834 and 1836, some Native Americans returned to traditional religious and subsistence practices while others labored on Mexican ranchos. Thus, multi-ethnic Indian communities grew up in and around the area and provided informant testimony to ethnologists from 1878 to 1933.

The California Gold Rush brought further disease to the native inhabitants, and by the 1850s, nearly all of the Ohlone had adapted in some way or another to economies based on cash income. Hunting and gathering activities continued to decline and were rapidly replaced with economies based on ranching and farming.

Santa Clara County and the City of San José

Santa Clara County derives its name from Mission Santa Clara de Asís, which was founded on January 12, 1777, and it is one of the original counties created at statehood, sharing its name with the City of Santa Clara. Santa Clara County was founded on February 18, 1850, originally having been named San José County a month prior. The California legislature decided to change the name a month after recommendations from General Mariana Guadalupe Vallejo's committee. Santa Clara is made up of 15 cities, with San José serving as the county seat and encompassing of 1,312 square miles.

The City of San José similarly can trace its roots back to 1777, with the founding of The Pueblo of San José de Guadalupe by the Spanish government. The town, a small farming community founded by 68 colonists, was the first of three established in Alta California to help administer and coordinate the missions and presidios in the province. The original pueblo, established along the Guadalupe River near what is today Taylor Street, had to be abandoned in 1785 due to severe winter flooding. By 1791, it had been reestablished on higher ground approximately 1 mile to the south, centering on what is today César Chávez Plaza.

In 1821, Mexico won independence from Spain and lands held in common, such as pueblo and mission lands, were granted to private individuals. In 1824, Mexico passed a law that allowed both foreign and native citizens to petition the governor for ownership of unoccupied tracts of land in an effort to stimulate further colonization. Drawn by opportunities to establish farms and small scale commercial operations under Mexican rule, Anglo-American settlers increasingly came to San José, and by the 1840s, the Native Californians found themselves in the minority. In 1846, the United States declared war on Mexico and acquired the Mexican province of California in the Treaty of Guadalupe Hidalgo 2 years afterward. The discovery of gold in the Sierra foothills precipitated a sudden influx of population to the State, and as a central supply station for prospectors during the Gold Rush, San José underwent a population explosion. This event accelerated California's path to statehood and in 1850, California became the 31st state in the United States with San José serving as the first State Capitol. A railroad line between San Francisco and San José was completed in 1864, followed a few years later by the Central Pacific line connecting San José with the transcontinental railroad in 1869. With the City now linked to national and international markets where the

agricultural and manufactured goods of the valley could be sold, San José increasingly became a major center for farming, industrial, and commercial activity and exhibited steady growth over the following two decades.

Following the turn of the century, San José, with its 18 canneries and 13 packinghouses, became the world's largest canning and dried-fruit packing center. It also pioneered the manufacture of specialized mechanical farm equipment in California. The war years had a major effect on the region, with the construction of the naval air station at Moffett Field, and San Francisco acting as the Gateway to the pacific from 1941 to 1945. Following World War II, San José shifted its focus away from agriculture in an attempt to attract new industries to the City. IBM had already established its West Coast headquarters in San José in 1943 and opened a new research and development facility in 1952. Both would prove to be forerunners of the City's future economy as Reynold Johnson and his team would later invent RAMAC, the first commercial computer, as well as the hard disk drive (Ward 1995). The 1970s saw a series of major innovations as San José electronics companies abandoned traditional vacuum tubes in favor of integrated circuits and silicon chips in the manufacture of computers and small electronics. The boom in production and consequent birth of the personal computer industry led Don C. Hoefler, then editor of Microelectronics News, to begin referring to the Santa Clara Valley as "Silicon Valley" for the first time in 1971.

Today, Santa Clara County is home to Apple, Facebook, Google, and Tesla, etc. Its population of nearly 1.8 million is one of the largest in the State and the largest of the nine Bay Area Counties. Aside from being a leader in technology, Santa Clara County is also home to Stanford University, San José State University, and Santa Clara University, as well as several sports teams, such as the San José Sharks. Santa Clara County is continuously listed as one of the best places to live in the United States and is celebrated for its high standards of living and natural diversity.

Research and Records Search Results

Northwest Information Center

On May 6, 2021, a records search for the project site and a 0.5-mile search radius was conducted at the NWIC located at Sonoma State University in Rohnert Park, California. The current inventories of the NRHP, the CRHR, the CHL list, the California Points of Historical Interest (CPHI) list, and the BERD for Santa Clara County were also reviewed to determine the existence of previously documented local historical resources.

The results of the records search indicate that 19 resources have been recorded within the 0.5-mile search radius (Table 12), seven of which are prehistoric and 12 of which are historic era in nature; two historic architectural resources are adjacent to the project site boundary, and one prehistoric archaeological resource is within the project boundaries. In addition, 51 survey reports are on file within the 0.5-mile radius (Table 13), nine of which addressed the proposed project area in its entirety (Table 14), indicating the project site has been previously surveyed.

Table 12: Cultural Resources Recorded Within 0.5-mile Radius of the Project Area

Resource No.	Resource Description	Date Recorded
P-43-000072	Prehistoric Archaeological Site: "IBM Site;" "Ford Site;" OTIS Resource Number–598720; OHP PRN–078 0050147.	1969
P-43-000146	Prehistoric Archaeological Site: Scl-133; Other–ARS Project #77-57.	1973
P-43-000325	Prehistoric Archaeological Site: Site 3 South; Other–PG&E Piercy Substation.	1978
P-43-000326	Prehistoric Archaeological Site: Site 7 South.	1978
P-43-000342	Historic Era Building/ Structure: 21 (prune drying sheds).	1978
P-43-000343	Historic Era Building/ Structure: Other (water tower).	1978
P-43-000482	Prehistoric Archaeological Site: Pestle Site; Other–FR-1; Other–ARS Project #77-57.	1977
P-43-001035	Prehistoric Archaeological Site: Resource Name–SCCCC-9; Other–H&A-2; Other–H&A-3; Other–CA-SCL-651.	1987
P-43-001196	Historic Era Building/Structure: 496A, B&C Piercy Road.	1998
P-43-001197	Prehistoric Archaeological Site: Prehistoric midden site with flakes and tools of Chert, ground stone tools, and burnt rocks.	1983
P-43-001259	Historic Era Building/Structure: English House, 456 Piercy Road.	2000
P-43-002627	Historic Era Building/Structure: 480 Piercy Road.	2000
P-43-002708	Historic Era Building/Structure: Peterson /Davila House; 5784 Hellyer Avenue.	1997
P-43-002709	Historic Era Building/Structure: Peterson /Harrison Barn 5736 Hellyer Avenue.	1997
P-43-002746	Historic Era Building/Structure: 484 Piercy Road.	1999
P-43-002747	Historic Era Building/Structure: 550 Piercy Road.	1999
P-43-002752	Historic Era Building/Structure: 459-469 Piercy Road.	2001
P-43-003866	Historic Era Building/Structure: Resource Name–YR-7; Voided–C-838.	1993
P-43-003867	Historic Era Building/Structure: New North Almaden Mine YR-9 Historic Structural Remains.	2016
Source: Northwest Information Center (NWIC) Records Search. May 6, 2021.		

Table 13: Previous Investigations Conducted Within 0.5-mile Radius of the Project Site

Report No.	Report Title/Project Focus	Author	Date
S-004313	Archaeological Impact Evaluation, Hewlett-Packard Assembly Plant, Proposed Along Coyote Creek, San José, California	William Roop	1976

Report No.	Report Title/Project Focus	Author	Date
S-004395	Proposal for the Completion of Archaeological Studies–Test Excavations and Evaluations–Route 101, Santa Clara County, Between Cochran and Ford Roads	No Author	1977
S-004540	Archaeological Reconnaissance of the Proposed Coyote Creek Flood Control Planning Study Area, Santa Clara County, California	Katherine Flynn	1978
S-004543	Intense Archaeological Surface Reconnaissance of the Hellyer Avenue Construction Project, San José, Santa Clara County, California	Gary S. Breschini, Rob Edwards, and Trudy Haversat	1978
S-004833	Ford Road Archaeological Testing Project (4–SCL-54)	R.B. Hastings	No Date
S-005245	Proposal to Provide a Mitigation Program for the Archaeological Sites Within the Santa Clara Route 101 Corridor	Gary Stickel	1979
S-005267	An Archaeological Reconnaissance of a Parcel of Land Near the Intersection of Fontanoso Avenue and Piercy Road in San José	Stephen A. Dietz	1978
S-005627	The Archaeological Boundary Determinations of Sites CA-SCL-313, 133, and 11 North, Santa Clara County, California	James C. Bard and Colin I. Busby	1981
S-006709	An Archaeological Reconnaissance of the CPS/Fontanoso Project Area (APN 678-14- 13), San José, California	Randy S. Wiberg	1984
S-010434	Silver Creek Valley Road and Silver Creek Road GPA Archaeological reconnaissance progress report	Miley Paul Holman	1987
S-011715	Prehistoric Cultural Resources Evaluation for the Silver Creek Valley Country Club, San José, California	Randy S. Wiberg	1990
S-020686	Archaeological Field Inspection of the Proposed Force Computer at Fontanoso Way Project Area, San José, Santa Clara County, California	Miley P. Holman	1998
S-020863	Historical and Architectural Evaluation for 5736, 5784 and 5808 Hellyer Avenue City of San José, County of Santa Clara	Glory A. Laffey and Charlene Duval	1997
S-020915	Phase I Archaeological Reconnaissance of the Richmond/Young Ranch Planned Residential Community Project Area, San José, Santa Clara County, California	Randy S. Wiberg	1998
S-021173	Cultural Resources Assessment-Lower Silver Creek West Riverside Properties 4.42 Acres on Silver Creek Valley Road-APN 678-14-56, City of San José, Santa Clara County, California	Colin I. Busby	1997
S-021187	Archaeological Evaluation Report, Three Parcels Located Between Hellyer Avenue and Silver Creek Valley Road, City of San José, Santa Clara County	Stuart A. Guedon, Colin Busby, and Donna Garaventa	1997
S-021209	Historical and Architectural Evaluation for 5736, 5784, and 5808 Hellyer Avenue, City of San José, County of Santa Clara	Glory A. Laffey and Charlene Duval	1997

Report No.	Report Title/Project Focus	Author	Date
S-021214	Cultural Resources Assessment- Electroglas Corporate Campus, Silver Creek Valley and Piercy Roads, City of San José, Santa Clara County (APN 678-14-50, 55, 59)	Colin I. Busby	1997
S-021217	Archaeological Evaluation Report, Six Parcels (APN 678-14-33, -34, -58, -62, -74; and 678- 16-11) Located Between Hellyer Avenue and Silver Creek Valley Road, City of San José, Santa Clara County	Stuart A. Guedon	1997
S-021541	Completion of Archaeological Monitoring Three Parcels Located Between Hellyer Avenue and Silver Creek Valley Road, City of San José, Santa Clara County, California	Colin I. Busby	1998
S-021565	Historic Evaluation Report, 474 Piercy Road (APN 678-08-05), City of San José, Santa Clara County, California	Ward Hill	1998
S-021566	Historic Evaluation Report, 496A, B, and C Piercy Road, City of San José, Santa Clara County, California	Ward Hill	1998
S-021567	Archaeological Evaluation Report, 474 Piercy Road (APN 678-08-05), City of San José, Santa Clara County, California	Stuart A. Guedon	1998
S-021568	Archaeological Evaluation Report, Piercy Road and Anderson Road Parcel 496-C, 498, 500, 502, 508, 514 Piercy Road (APN 678-08- 11 to 16, 23), City of San José, Santa Clara County, California	Stuart A. Guedon, Colin I. Busby, Donna M. Garaventa, and Melody E. Tannam	1998
S-022614	Cultural Resource Evaluation of Lands at 487 Piercy Road in the City of San José	Robert R. Cartier	2000
S-022946	Archaeological Field Inspection of the English Place and Piercy Development Area, APN 678-08,025, 026, 028 San José, Santa Clara County, California	Miley Paul Holman	2000
S-023001	Archaeological Field Inspection of the Lands of Gardner, 550 Piercy Road, San José, Santa Clara County, California	Miley Paul Holman	2000
S-023066	Archaeological Evaluation Report, Hellyer Extension Project, City of San José, Santa Clara County, California	Colin I. Busby, Donna M. Garaventa, Stuart A. Guedon, and Melody E. Tannam	1999
S-023068	Historic Evaluation Report, Hellyer Avenue Extension Project, 484 and 550 Piercy Road, City of San José, Santa Clara County, California	Glory Anne Laffey and Ward Hill	1999
S-023092	Archaeological Evaluation Report, Equestrian Staging Center Project, Silver Creek, Valley Road, City of San José, Santa Clara County, California	Stuart A. Guedon	1999
S-023360	Archaeological Evaluation Report, Four Parcels (APN 678-14-52, -60, -66 and 678-16- 5) Located between Hellyer Avenue, Fontanoso Way and Silver Creek Valley Road, City of San José, Santa Clara County	Stuart A. Guedon, Colin I. Busby, Donna M. Garaventa, and Melody E. Tannam	1999

Report No.	Report Title/Project Focus	Author	Date
S-023382	Cultural Resources Assessment, Historic Properties Affected or Potentially Affected by the South Bay Water Recycling Program Phase 2 Facilities, Modifications to Existing Segments SJ-1, SJ-2, SC-2, SC-5, M-1 and New Segments SJ-3, SJ-4, SJ-5, SJ-6, SJ-7, M-2, M-5, Cities of San José and Milpitas, Santa Clara County	No Author	2000
S-023560	Surface and Subsurface Archaeological Reconnaissance of Four Parcels Composing the Piercy/Silver Creek Project Area, on Piercy and Silver Creek Valley Roads, San José, California	Matthew Clark	2001
S-024181	Historical Evaluation of the Structure at 456 Piercy Road in the City of San José	Robert Cartier	2000
S-024432	Cultural Resource Evaluation of Lands Near Enzo and Rue Ferrari Drives in the City of San José	Robert R. Cartier	2000
S-024974	Historic Evaluation Report, 480 Piercy Road, City of San José, Santa Clara County	Ward Hill	2000
S-024975	Archaeological Evaluation Report, 480 Piercy Road (APN 678-08-6), 484 Piercy Road (APN 678-08-07) City of San José, Santa Clara County, California	Stuart Guedon and Melody Tannam	2000
S-024990	Historic Evaluation Report 459-469 Piercy Road, City of San José, Santa Clara County	Ward Hill	2001
S-025016	Silver Creek Business Center, Silver Creek Valley Road, Hellyer Avenue, and Fontanoso Way City of San José, Santa Clara County, Closure Report for Archaeological Monitoring Services. October 2000 to March 2001	Colin I. Busby	2001
S-025032	Cultural Resources Assessment (Positive), Historic Properties Affected or Potentially Affected by the South Bay Water Recycling Program, Silver Creek Pipeline Expansion, Located in South San José, Santa Clara County	No Author	2001
S-025551	Archaeological Monitoring Closure Report – Piercy Business Park City of San José, Santa Clara County Site Development Permit File #H00-05-034 PW 3-13089	Colin I. Busby	2002
S-030606	Archaeological Monitoring Closure report, Silver Creek Valley Place and Bridge Project, City of San José, Santa Clara County, California	Colin I. Busby	2004
Source: Northwest Information Center (NWIC) Records Search. May 6, 2021.			

Table 14: Previous Investigations Conducted Within the Project Area

Report No.	Report Title/Project Focus	Author	Date
S-004546	Hellyer Avenue South: An Intensive Cultural Resource Reconnaissance for the Proposed Industrial Park South of Hellyer Avenue Along Coyote Creek, San José, California	G. S. Breschini, R. Edwards, T. Haversat, C. Detlefs, G. A. Laffey, and M. Fazio	1978

Report No.	Report Title/Project Focus	Author	Date
S-004827	Cultural Resources Evaluation: Edenvale Redevelopment Project Area Expansion	Dorothea J. Theodoratus, Richard D. Ambro, Billy J. Peck, Michael Crist, C. Bruce Hanson, Clinton M. Blount, Ruth M. Begell, Albert M. Hurtado, and Pamela J. McGuire	1979
S-006178	Cultural Resources Survey of the Proposed Water Reservoir of the Expanded Edenvale Redevelopment Project, City of San José, Santa Clara County	Donna M. Garaventa, Rebecca Loveland Anastasio, Patricia M. Ogrey, and William A. McCormack	1983
S-006289	Results of a Preliminary Prehistoric Archaeological Reconnaissance of a 2,300 Acre Parcel in San José, California	William G. Roop	1983
S-010577	Cultural Resource Evaluation of the Proposed Evergreen Canal and Coyote Canal Extension Abandonment Project, in the City of San José, County of Santa Clara	Robert Cartier	1989
S-023067	Archaeological Evaluation Report Hellyer Avenue Parcel APN 678-14-011 City of San José, Santa Clara County, California	Colin I. Busby, Donna M. Garaventa, Stuart A. Guedon, and Melody E. Tannam	1999
S-024940	Archaeological Evaluation Report, Edenvale Business Park (APN 678-14-042) City of San José, Santa Clara County, California	Stuart Guedon	2000
S-024989	Archaeological Evaluation Report, 459-469 Piercy Road (APN 678-14-02 and -02) City of San José, Santa Clara County, California	Stuart Guedon	2001
S-049305	Young Ranch Cultural Resources Technical Study Memo	Jennifer Redmond, Annamarie Guerrero, and Jay Rehor	2016
Source: Northwest Information Center (NWIC) Records Search. May 6, 2021.			

The nine studies addressing the project site provide additional details on surveys and additional fieldwork conducted at the project site. They note that historic maps, records, and historic aerial photographs indicate that previous land use was primarily agricultural. The reports note three of the 19 cultural resources are located outside the property boundary but close enough to warrant additional discussion to provide additional historic context for the immediate project area.

P-43-001197: Prehistoric Midden Site

This site is a midden site consisting of an assemblage of prehistoric lithic flakes, tools of Franciscan chert, burnt rock, charcoal, and animal bones that is indicative of a temporary settlement site. A comprehensive survey by Colin I. Busby in May 2000 attempted to locate the site but was unable to do so. Busby noted that previous surveys conducted in the 1970s have been negative for finding

resources within the boundary of P-43-001197 and further surveys in adjacent parcels (including the project site) failed to find archaeological materials. Archaeological monitoring of extensive utilities trenching across the entire project site with excavations of 10-15 feet deep and 2 feet wide failed to find any archaeological materials, indicating that P-43-001197 is not located within the project boundary and that the presence of subsurface archaeological deposits within the property boundary is unlikely.

P-43-003867: Historic Era Resource, Concrete Foundation and Associated Brick Structure

Located on the site of a former mine, this resource lies on the northeast ridgeline, adjacent to but outside the project area. It is a concrete foundation and associated brick structure that is likely the location of a smelting furnace known to have been built in the area in the 1930s by property owner William Biaggi. The brick feature is 2 feet wide and 3 feet tall and built into the hillside. The concrete foundation is approximately 8.5 feet long and 5.5 feet wide. This resource has been evaluated and found not to meet the significance criteria to qualify on the CRHR or NRHP. According to the evaluator, the site lacks structural and historic integrity of the original building for which it was a foundation and does not appear to contain enough data to contribute to research themes or provide a picture of the original operation of the mine. It also is not associated with an important historical person nor associated with events that have made a significant contribution to the broad patterns of California history or cultural heritage. Therefore, it does not meet the threshold of significance of the four criteria for inclusion in the CRHR.

P-43-002752: Historic Era Resource, 459-469 Piercy Road

Located on southern boundary of the project area, the house at 459 Piercy Road was originally built in San José and subsequently moved to Piercy Road due to the widening of the Capitol Highway. Ward Hill, who conducted a historical assessment of the resource in 2001, stated that since it was moved from San José and subsequently remodeled, its historical integrity as well as significance to the ranching and agricultural history of the Edenvale area has been compromised. Mr. Hill states that "Many better examples of this [1950s Ranch House] style of house survive in the San José area." Four other buildings, namely two vehicle sheds, a garage, and a guesthouse, were built after 1980. The house at 469 Piercy Road to the east was constructed in the 1990s. The historic era buildings located at 459 Piercy Road have since been demolished, leaving only the 1990s era structures located at 469 Piercy Road. These buildings are less than 45 years old and they, along with the demolished structures at 459 Piercy Road, do not qualify for the CRHR or NRHP.

Native American Heritage Commission

On May 3, 2021, FCS sent a request to the NAHC in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the project site. A response was received on May 20, 2021, indicating that the Sacred Lands File search produced a negative result for Native American cultural resources in the project site. The NAHC included a list of 12 tribal representatives that have cultural resources within the broader vicinity of the project area available for consultation. To ensure that all Native American knowledge and concerns over potential TCRs that may be affected by implementation of the proposed project are addressed, and as part of FCS's NAHC records search process, letters were sent to each of the 12 tribal representatives that the NAHC indicated to ascertain whether there are any potential TCRs in the project area that may not show up on the Sacred Lands File search. The letters were sent on May 25, 2021. On June 2, 2021, a letter response

was received from the Tamien Nation requesting Native American monitoring of the project area during any subsurface construction activities. On June 7, 2021, the Indian Canyon Band of Costanoan Ohlone People contacted FCS via email requesting that a Native American Monitor and an Archaeological Monitor be present on-site during any earth-disturbing activities. No additional responses have been received to date. This outreach activity was not part of AB 52 consultation which takes place between the lead agency and the consulting tribes.

Pedestrian Field Survey

On May 26, 2021, FCS Senior Archaeologist, Dr. Dana DePietro, RPA, conducted a pedestrian survey for unrecorded cultural resources within the project site. The survey began in the southwest corner of the project site and moved east, using north–south transects spaced at 15-meter intervals whenever possible. All areas of proposed development were closely inspected for culturally modified soils or other indicators of potential historic or prehistoric resources. Dr. DePietro examined all areas of the exposed ground surface for prehistoric artifacts (e.g., fire-affected rock, milling tools, flaked stone tools, tool-making debris, ceramics), soil discoloration and depressions that might indicate the presence of a cultural midden, faunal and human osteological remains, and features indicative of the former presence of structures or buildings (e.g., postholes, standing exterior walls, foundations) or historic debris (e.g., glass, metal, ceramics). In addition, the project site was inspected for culturally modified soils or other indicators of potential historic or prehistoric resources. This includes raw materials commonly used in the manufacture of tools such as obsidian, Franciscan chert, etc.

A road composed of imported gravel and compacted fill runs along the western boundary of the project site and leads to a temporary concrete and gravel staging area currently being used to develop the immediately adjacent parcel north of the project site. Because of the road, facility and moderate vegetation across the site, visibility of native soils was poor, ranging between 30 to 40 percent. Native soils were most clearly visible in artificial cuts and in areas where bioturbation or construction trenching had exposed subsurface soils. Other sections of poor visibility were intermittently inspected using a hand trowel. Visible soils were largely composed of light brown (10YR 5/3) silt with low clay content, interspersed with small (2-3 cm) stones primarily composed of quartz and serpentine.

Impact Discussion

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

Less than significant impact. CEQA Guidelines Section 15064.5 defines “historical resources” as resources listed in the CRHR, a local register, determined significant by the lead agency, or determined to be eligible by the California Historical Resources Commission for listing in the CRHR. The criteria for eligibility are generally set by the National Historic Preservation Act of 1966, which established the NRHP, and which recognizes properties that are significant at the federal, State, and local levels. To be eligible for listing in the NRHP and CRHR, a district, site, building, structure, or object must possess integrity of location, design, setting, materials, workmanship, feeling, and association relative to American history, architecture, archaeology, engineering, or culture. In addition, unless the property possesses exceptional significance, it must be at least 50 years old to be eligible.

Results from the NWIC indicate that there are 12 historic era resources that have been recorded within a 0.5-mile radius of the project site, none which are located within the boundaries of the project site itself. The proposed project does not involve the demolition or removal of any architectural resources within the project site, and the two historic era resources in closest proximity to the project site (459-469 Piercy Road and the historic era brick structure discussed above) do not qualify for inclusion on the NRHP or CRHR.

While unlikely, subsurface construction activities always have the potential to destroy or damage previously undiscovered historical resources. Historic resources can include wood, stone, foundations, and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, and other refuse. Accordingly, adherence to Standard Permit Condition below would reduce potential impacts to historic architectural resources that may be discovered during project construction to a less than significant level.

City 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 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 NAHC 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 whether they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (NWIC) (if applicable). Project personnel shall not collect or move any cultural materials.

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

Less than significant impact with Mitigation Incorporated. Section 15064.5 of the CEQA Guidelines defines significant archaeological resources as resources that meet the criteria for historical resources, as discussed above, or resources that constitute unique archaeological resources. A project-related significant adverse effect could occur if a project were to affect archaeological resources that fall under either of these categories.

Results from the NWIC indicated that there is one informal archaeological resource (P-43-000197) previously recorded within the project site. A comprehensive survey of the project site conducted by Colin I. Busby in May 2000 on behalf of Basin Research Associates attempted to and failed to locate this archaeological resource within the project site.[30] Busby also noted that previous surveys conducted in the 1970s have been negative for finding the said resource. In addition, a field survey

[30] Busby, C.I. 2000. Archaeological Evaluation Report: Edenvale Business Park. Basin Research Associates.

conducted by FCS Senior Archaeologist, Dr. Dana DePietro, on May 26, 2021, attempted to and failed to locate the resource.

While subsequent surveys have failed to locate this resource, the project site's location on Holocene soil, its proximity to Coyote Creek, and the previous resource recorded on the project site suggest that there is a moderate to high potential for inadvertent discovery of archaeological resources during subsurface construction. Archaeological resources can include but are not limited to stone, bone, wood, or shell artifacts or features, including hearths and structural elements. Damage or destruction of these resources would be a potentially significant impact.

The Standard Permit Condition, discussed above, and implementation of MM CUL-1.1, MM CUL-1.2, and MM CUL-1.3 set forth the steps to be taken should any significant cultural resources be discovered during construction activities, as well as protocols for Tribal Cultural Awareness Training and construction monitoring developed in cooperation with the Tamien Nation. Adherence to Standard Permit Condition and MM CUL-1.1, MM CUL-1.2, and MM CUL-1.3 would ensure that potential impacts on archaeological resources are reduced to a less than significant level.

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

Less than significant impact. A review of historic aerials from 1948 to 2016 indicates that from the earliest aerial in 1948 until the present, the project area has never been developed.[31] The potential for the disturbance of any human remains is considered low. While it is highly unlikely that human remains exist within or near the project site, there is always a possibility that subsurface construction activities associated with the proposed project, such as grading or trenching, could potentially damage or destroy previously undiscovered human remains. In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and 5097.98 must be followed. The Standard Permit Condition pertinent to subsurface cultural resources and human remains, discussed below further specifies the procedures to follow in the event human remains are uncovered. Along with compliance with required guidelines and statutes, adherence to the City's Standard Permit Condition below would reduce potential impacts to human remains to a less than significant level.

City Standard Permit Condition

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 PRC Sections 5097.9 through 5097.99, as amended per AB 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 or Code Enforcement or the Director's designee and the qualified Archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner

[31] Nationwide Environmental Title Research, LLC. 2020. Historic Aerials. Website: https://www.historicaerials.com/viewer. Accessed June 9, 2021.

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 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/her 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/her authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

4) 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.

Less than significant with mitigation incorporated. A review of the CRHR, local registers of historic resources, the NWIC records search results, and NAHC Sacred Lands File search results failed to identify any previously listed TCRs that may be adversely affected by the proposed project. However, as discussed above, both the Tamien Nation and the Indian Canyon Band of Costanoan Ohlone People requested that an Archaeological Monitor and Native American Monitor be present during any subsurface construction activities due to the sensitivity of the site and potential to damage or destroy previously unknown or undocumented TCRs.

As discussed above, there is one recorded tribal/archaeological resource located within the project area (P-43-001197: Prehistoric Midden Site). Although previous archaeological investigations failed to locate the resource, previously unknown or unrecorded archaeological and/or TCR deposits could be discovered during ground-disturbing construction activities. Project implementation activities, such as project site clearing, preparation, excavation, and grading, could potentially encounter buried TCRs. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, as possessing traditional or cultural significance to the Native American or other descendant communities, would be materially impaired.

Assembly Bill (AB) 52 requires lead agencies to conduct formal consultations with California Native American tribes during the CEQA process to identify TCRs that may be significantly impacted by a proposed project. This consultation requirement applies only if the tribes have sent written requests

for notification of projects to the lead agency. At the time of preparation of this Initial Study, only the Tamien Nation has requested official notice under AB 52. In compliance with AB 52, the City sent early notification to Tamien Nation representatives on September 29, 2021, via certified mail, and confirmation of receipt was received on October 6, 2021. A consultation request was received by the Chairwoman of the Tamien Nation on November 5, 2021. In addition, although an official AB 52 notification request has not been received by the City from the Indian Canyon Band of Costanoan Ohlone People, the City sent an email to tribal representatives on February 4, 2022 to notify the Tribe that that the City is in consultation with Chairwoman Quirina Geary of the Tamien Nation pursuant to AB 52 requirements and archaeological and tribal monitors would be required, and no further consultation was requested by the Tribe in response to this notification.

In response to the Tamien Nation Chairwoman's request, three separate consultation meetings were held from December 2021 through April 2022, in addition to correspondence with the Chairwoman to determine acceptance of proposed mitigation measures for inclusion in this Initial Study. Based on the information presented in past archaeological investigations conducted for the project area, there are no officially documented resources on-site. However, as discussed above, there is one recorded resource in the proposed project area, and future ground-disturbing activities associated with the proposed project have potential to uncover and damage or destroy unknown or undocumented resources. In consultation with Tamien Nation, the City has determined that implementation of the MM CUL-1.1, MM CUL-1.2, and MM CUL-1.3 below and the Standard City Permit Conditions identified above would reduce this potential impact to less than significant.

Impact CUL-1

Construction activities associated with the proposed project could result in the disturbance of previously undocumented tribal cultural resources due to an informal resource in the immediate project vicinity, identified through AB 52 consultation with the Tamien Nation, and the site's proximity to Coyote Creek.

Mitigation Measures

MM CUL-1.1 Tribal Cultural Awareness Training

Prior to issuance of any demolition or grading permits, whichever occurs first, the project applicant shall be required to submit evidence that a Cultural Awareness Training has been provided to construction personnel prior to ground disturbances. The training shall be facilitated by the Project Archaeologist in collaboration with a Native American representative registered with the Native American Heritage Commission (NAHC) 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.

MM CUL-1.2 Monitoring

A qualified Native American Monitor, registered with the NAHC 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, in collaboration with a qualified

Archaeologist shall also be present during applicable earthmoving activities such as, but not limited to, trenching, initial or full grading, boring on-site, or major landscaping.

MM CUL-1.3 Evaluation

During ground-disturbing activities, and prior to the issuance of any occupancy permits, the project applicant shall notify the Director of PBCE or the Director's designee of any finds during monitoring of any ground-disturbing activities. Any historic or prehistoric material identified in the project area during excavation activities shall be evaluated for eligibility for listing in the California Register of Historical Resources (CRHR) as determined by the California Office of Historic Preservation (OHP). Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery and treatment shall be determined by the Project Archaeologist in collaboration with a Native American representative registered with the NAHC 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. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center (NWIC) and NAHC Sacred Land File, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the City of San José Department of PBCE.

4.5.3 - Conclusion

With adherence to Standard Permit Conditions and implementation of MM CUL-1.1, MM CUL-1.2, and MM CUL-1.3, impacts to cultural and tribal cultural resources would be considered less than significant.

4.6 - ENERGY

Energy is generally transmitted either in the form of electricity, measured in kilowatt-hours (kWh) or megawatt-hours (MWh), or natural gas measured in therms.

Electricity

Electricity is used primarily for lighting, appliances, and other uses associated with operation of the proposed project.

Natural Gas

Natural gas is used primarily for heating and water heating associated with operation of the proposed project.

Fuel

Fuel is used primarily for powering off-road equipment, trucks, and worker vehicles. The typical fuel types used are diesel and gasoline.

4.6.1 - Environmental Setting

Applicable Plans, Policies, and Regulations

Federal Energy Policy and Conservation Act of 1975

Vehicle fuel efficiency is regulated at the federal level. Pursuant to the Federal Energy Policy and Conservation Act of 1975, the National Highway Traffic Safety Administration (NHTSA) is responsible for establishing additional vehicle standards and for revising existing standards.

EPA Off-Road Diesel Engine Emissions Standards

The EPA regulates nonroad diesel engines that power both mobile equipment (bulldozers, scrapers, front-end loaders, etc.) and stationary equipment (generators, pumps, compressors, etc.). The EPA has no formal fuel economy standards for nonroad (e.g., construction) diesel engines but does regulate diesel emissions, which indirectly affects fuel economy. In 1994, EPA adopted the first set of emission standards ("Tier 1") for all new nonroad diesel engines greater than 37 kilowatts (kW [50 horsepower]). The Tier 1 standards were phased in for different engine sizes between 1996 and 2000, reducing NO_X emissions from these engines by 30 percent. Subsequently, the EPA adopted more stringent emission standards for NO_X, hydrocarbons, and PM from new nonroad diesel engines. This program included the first set of standards for nonroad diesel engines less than 37 kW. It also phased in more stringent "Tier 2" emission standards from 2001 to 2006 for all engine sizes and added yet more stringent "Tier 3" standards for engines between 37 and 560 kW (50 and 750 horsepower) from 2006 to 2008. These standards further reduced nonroad diesel engine emissions by 60 percent for NO_X and 40 percent for PM from Tier 1 emission levels. In 2004, the EPA issued the Clean Air Nonroad Diesel Rule. This rule cut emissions from nonroad diesel engines by more than 90 percent, and was phased in between 2008 and 2014. These emission standards are intended to promote advanced clean technologies for nonroad diesel engines that improve fuel combustion, but they also result in slight decreases in fuel economy.

California Renewable Energy Standards

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. In 2006, California's 20 percent by 2010 Renewables Portfolio Standard goal was codified under SB 107. Under the provisions of SB 107 (signed into law in 2006), investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and requires that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Pacific Gas and Electric Company's (PG&E's) electricity mix in 2015 was 30 percent renewable. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 for retail sellers and publicly owned utilities requires them to procure 50 percent of the State's electricity from renewable sources by 2030.

California Senate Bill 100: Renewable Portfolio Standard Program

On September 10, 2018, Governor Newsom signed SB 100, requiring California electricity utility providers to supply all in-state end users with electricity sourced from renewable or carbon free sources by 2045. Specifically, SB 100 accelerates the goals expressed under SB 1078 and requires that the program achieve 50 percent of electricity sourced from renewables by December 31, 2026, 60 percent by December 31, 2030, and 100 percent of electricity sourced from carbon free sources by December 31, 2045. For clarification, renewable sources, as described herein, includes all renewable sources (e.g., solar, small hydro, wind) but notably omits large-scale hydroelectric and nuclear electricity generation; carbon free sources include all renewable sources as well as large-scale hydroelectric and nuclear electricity generation.

California Building Standards Code

The Building Energy Efficiency Standards were first adopted in 1976 and have been updated periodically since then as directed by statute, and were last updated in 2019. The Standards contain energy and water efficiency requirements (and indoor air quality requirements) for newly constructed buildings, additions to existing buildings, and alterations to existing buildings. The Standards are conceptually divided into three basic sets. First, there is a basic set of mandatory requirements that apply to all buildings. Second, there is a set of performance standards—the energy budgets—that vary by climate zone (of which there are 16 in California) and building type; thus, the Standards are tailored to local conditions, and provide flexibility in how energy efficiency in buildings can be achieved. Finally, the third set constitutes an alternative to the performance standards, which is a set of prescriptive packages that provide a recipe or a checklist compliance approach.

Title 24 California Green Building Standards Code

California Code of Regulations Title 24 Part 11 code is a comprehensive and uniform regulatory code for all residential, commercial, and school buildings that went in effect January 1, 2011. The code is updated on a regular basis, with the most recent update consisting of the 2019 CALGreen that became effective January 1, 2020.[32] Local jurisdictions are permitted to adopt more stringent

[32] State of California. 2020. California Green Building Standards Code (CALGreen). Website: https://www.dgs.ca.gov/BSC/Resources/Page-Content/Building-Standards-Commission-Resources-List-Folder/CALGreen. Accessed December 21, 2021.

requirements, as State law provides methods for local enhancements. State Building Code provides the minimum standard that buildings need to meet in order to be certified for occupancy, which is generally enforced by the local building official.

City of San José Building Reach Code

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

Private Sector Green Building Policy (Council Policy 6-32)

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED™), GreenPoint, or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 15 below.

Table 15: Private Sector Green Building Policy Applicable Projects

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
Commercial/Industrial—Tier 1 (Less than 25,000 square feet)	LEED™ Applicable New Construction Checklist
Commercial/Industrial—Tier 2 (25,000 square feet or greater)	**LEED™ Silver**
Residential—Tier 1 (Less than 10 units)	GreenPoint or LEED™ Checklist
Residential—Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED™ Certified
High Rise Residential (75 feet or higher)	LEED™ Certified
Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. Website: https://www.sanJoséca.gov/DocumentCenter/Home/View/363.	

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to energy and are relevant to the proposed project.

Envision San José 2040 General Plan Relevant Energy Policies

Policies	Description
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-2.4	Promote energy efficient construction industry practices.
Policy MS-2.2	Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
Policy MS-2.3	Utilize solar orientation, (i.e., building placement), landscaping, design, and construction techniques for new construction to minimize energy consumption.
Policy MS-2.11	Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design).
Policy MS-3.1	Require water efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation or other area functions.
Policy MS-5.5	Maximize recycling and composting from all residents, businesses, and institutions in the City.
Policy MS-14.1	Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
Policy MS-14.3	Consistent with the California Public Utilities Commission's California Long-Term Energy Efficiency Strategic Plan, as revised and when technological advances make it feasible, require all new residential and commercial construction to be designed for zero-net-energy use.
Policy TR-1.4	Through the entitlement process for new development fund needed transportation improvements for all modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.6.2 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

Less than significant impact. Energy use consumed by the proposed project was estimated and includes natural gas, electricity, and fuel consumption for the proposed project construction and operation. Appendix A includes the energy calculations developed in this section.

Construction Impacts

The anticipated construction was assumed to begin in April 2022 and conclude in February 2023. If the construction schedule moves to later years, construction emissions would likely decrease because of improvements in technology and more stringent regulatory requirements as older, less efficient equipment is replaced by newer and cleaner equipment. Project construction would require site preparation, grading, building construction, paving, and architectural coating activities. These construction activities would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., site clearing and grading), the actual construction of the building, paving of interior roadways and parking surfaces, and the architectural coating of the constructed buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks.

The on-site equipment used during the construction of the proposed project could include gasoline- and diesel-powered construction and transportation equipment, including trucks, bulldozers, front-end loaders, forklifts, and cranes. Construction equipment is estimated to consume a total of 50,317 gallons of diesel fuel over the entire construction duration (Appendix A).

Fuel use associated with construction vehicle trips generated by the proposed project was also estimated including construction worker trips, haul truck trips for material transport, and vendor trips for construction material deliveries. Fuel use from these vehicles traveling to the project site was based on (1) the projected number of trips the proposed project would generate during construction, (2) average trip distances by trip type, and (3) fuel efficiencies estimated in the ARB Emissions Factors (EMFAC) mobile source emission model. At the time the Air Quality, Greenhouse

Gas Emissions, and Energy Analysis (Appendix A) was prepared, the project applicant anticipated approximately 1,000 cubic yards of soil to be imported and approximately 5,000 cubic yards of soil to be exported during project construction. The project applicant has since confirmed that an estimated 2,380 cubic yards of soil would be exported during project construction; therefore, the emissions modeling utilized in this analysis represents a conservative assessment of construction fuel consumption. Appendix A includes the specific parameters used to estimate fuel usage. Under an unmitigated construction scenario, the proposed project would generate an estimated 216,100 VMT and a combined 10,384 gallons of gasoline and diesel for vehicle travel during construction.

Other equipment could include construction lighting, field services (office trailers), and electrically driven equipment such as pumps and other tools. Singlewide mobile office trailers, commonly used in construction staging areas, generally range from 160 square feet to 720 square feet. A typical 720-square-foot office trailer would consume approximately 10,398 kilowatt-hour (kWh) during the construction phase (Appendix A).

The overall construction schedule and process are already designed to be efficient to avoid excess monetary costs. For example, equipment and fuel are not typically used wastefully due to the added expense of renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. Nonetheless, it is anticipated that the proposed project's construction would not result in wasteful, inefficient, and unnecessary energy consumption. Construction-related energy impacts would be less than significant.

Operational Impacts

The proposed project would consume energy as part of building operations and transportation activities. Table 16 summarizes the proposed project's operational energy consumption.

Table 16: Estimated Annual Project Energy Consumption

Energy Type	Annual Consumption
Electricity	547,804 kWh/year
Natural Gas	0 kBTU/year
Passenger Vehicle Fuel Consumption	12,411 gallons/year
Truck Fuel Consumption	80,207 gallons/year

Notes:
kBTU = kilo-British Thermal Unit
kWh = kilowatt-hour
VMT = Vehicle Miles Traveled
[1] Operational Fuel Consumption based on EMFAC2017 Emissions Inventory, Vehicle Classification (Fleet Mix) EMFAC2007 Categories. The calculations are for the year 2023, the proposed project's first full year of operation, and for Santa Clara County, where the proposed project is located (Appendix A).

Operation of the proposed project would consume an estimated 547,804 kWh of electricity annually. In addition, the proposed project would be required to comply with the City's Reach Code (Ordinance No. 30502), which would ensure that new buildings are designed to be all-electric. Therefore, the proposed project is assumed to consume 0 kilo-British Thermal Unit (kBTU) of natural

gas on an annual basis. Moreover, Title 24, Part 6, Subchapter 8 of the 2019 CBC would require the proposed project to incorporate rooftop structural support to accommodate future installation of solar panels. Additionally, the proposed project's buildings would be designed and constructed following the State's Building Energy Efficiency Standards and be required to achieve LEED™ Silver certification consistent with Private Sector Green Building Policy (Council Policy 6-32), as illustrated in Table 15. While no quantified significance threshold exists for energy consumption, project-related passenger vehicle trips would consume an estimated 12,411 gallons of gasoline and diesel and project-related truck trips would consume an estimated 80,207 gallons of diesel annually.[33] Moreover, the proposed project is located in an urbanized portion of the City of San José and would provide commercial development close to jobs, amenities, such as eight bicycle parking spaces, and services that would reduce the need to drive and consume unnecessary fuel. Moreover, as discussed in Section 4.17, Transportation, the proposed project would be within walking distance of Bus Route 42 stops along Hellyer Avenue at Piercy Road, which would help contribute to potential reductions in single-occupancy vehicle use and subsequent transportation fuel consumption. For these reasons, fuel consumption associated with proposed project operation would not be wasteful, inefficient, or unnecessary. Impacts would be less than significant.

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

Less than significant impact. The proposed project would be served with electricity provided by San José Clean Energy (SJCE). SJCE currently provides two power service options. The default option currently consists of 60 percent renewable sources (Greensource program) and the enhanced program consists of 100 percent renewable sources (TotalGreen program). The applicant of the proposed project has committed to enroll in SJCE's TotalGreen program, as described in Section 4.8, Greenhouse Gas Emissions. As such, the proposed project would contribute to meeting future legislative targets codified by SB 100, including at least 60 percent of electricity sold to end users in California generated from renewable energy sources by 2030.

The proposed project would be designed following Title 24, California's Energy Efficiency Standards for Residential Buildings, as applicable. These standards include minimum energy efficiency requirements related to building envelope, mechanical systems (e.g., HVAC and water heating systems), and indoor and outdoor lighting. Moreover, Title 24, Part 6, Subchapter 8 of the 2019 CBC would also require the proposed project to incorporate rooftop solar. Additionally, the proposed project, due to its nature and size, would be required by Council Policy 6-32 to meet LEED™ Silver certification standards for improving building energy efficiency. Incorporating the Title 24 and LEED™ Silver standards into the proposed project's design would ensure that the proposed project would not result in the use of energy in a wasteful manner. Also, the proposed project would be required to include EV charging infrastructure above current CALGreen requirements, and solar readiness consistent with the City's Reach Code.

The proposed project would comply with existing State energy standards and with energy conservation policies contained in the General Plan and GHG Reduction Strategy (GHGRS) as illustrated in Appendix E. As such, the proposed project would not conflict with State or local renewable or energy efficiency objectives. Impacts would be less than significant.

[33] Note that this is not a quantified threshold, but rather quantification and disclosure.

Mitigation Measures

None have been identified.

City Standard Permit Conditions

None have been identified.

4.6.3 - Conclusion

The proposed project would result in a less than significant impact on energy use.

4.7 - GEOLOGY AND SOILS

The findings of this section are based on the Geotechnical Investigation prepared for the project site by Cornerstone Earth Group[34] on March 22, 2021 (Appendix D).

4.7.1 - Environmental Setting

The project site is located within the southeastern portion of the City of San José, along the margin between the Santa Clara Valley to the west and the Silver Creek Hills to the east. The interface between these two physiographic regions is defined by a band of front-range faults, along which the mountains have risen and been thrust over the valley over the past 5 to 10 million years. According to the Geotechnical Investigation (Appendix D), the Piercy Fault zone, a 70-foot-wide fault zone, traverses the middle of the site. This fault is further discussed under Impact Discussion 1(b) below.

Applicable Plans, Policies, and Regulations

California Building Code

The International Conference of Building Officials publishes the International Building Code, which is the widely adopted model building code in the United States. The 2019 CBC is another name for the body of regulations known as California Code of Regulations, Title 24, Part 2, which is a portion of the CBC. The CBC incorporates by reference the International Building Code requirements with necessary California amendments. The California Building Standards Commission by law is responsible for coordinating all building standards and implementing Title 24.

Compliance with the 2019 CBC requires that (with very limited exceptions) structures for human occupancy be designed and constructed to resist the effects of earthquake motions. The Seismic Design Category for a structure is determined in accordance with either CBC Section 1613–Earthquake Loads or the American Society of Civil Engineers Standard No. 7-05, Minimum Design Loads for Buildings and Other Structures. In brief, based on the engineering properties and soil type at a proposed site, the site receives a Site Class ranging from A to F. The Site Class is then combined with Spectral Response (ground acceleration induced by earthquake) information for the location to arrive at a Seismic Design Category ranging from A to D, of which D represents the most severe conditions. A qualified Geotechnical Engineer must determine the classification of a specific site and related calculations.

Finally, the CBC requires that a geotechnical investigation be prepared for all new buildings that are 4,000 square feet or larger, as well as for smaller buildings if they meet certain criteria. A California Registered Geotechnical Engineer must prepare the geotechnical investigation and prepare a report addressing the classification and investigation of the soil, including requirements for geotechnical designs necessary to meet standards for reducing exposure to geological hazards.

Alquist-Priolo Earthquake Fault Zoning Act

In response to the severe fault rupture damage of structures by the 1971 San Fernando earthquake, the State of California enacted the Alquist-Priolo Earthquake Fault Zoning Act in 1972. This Act required the State Geologist to delineate Earthquake Fault Zones along known active faults that have

[34] Cornerstone Earth Group. 2021. Geologic Hazard Evaluation and Design-Level Geotechnical Investigation. March 22.

a relatively high potential for ground rupture. Faults zoned under the Alquist-Priolo Act must meet the strict definition of being "sufficiently active" and "well-defined" for inclusion as an Earthquake Fault Zones.[35] The Earthquake Fault Zones are revised periodically, and they extend 200 to 500 feet on either side of identified fault traces. No structures for human occupancy may be built across an identified active fault trace. An area of 50 feet on either side of an active fault trace is assumed to be underlain by the fault, unless proven otherwise. Proposed construction in an Earthquake Fault Zone is permitted only following the completion of a fault location report prepared by a California Registered Geologist.

Seismic Hazards Mapping Act

In 1990, following the 1989 Loma Prieta earthquake, the California legislature enacted the Seismic Hazards Mapping Act to protect the public from the effects of strong ground shaking, liquefaction, landslides, and other seismic hazards. The Seismic Hazards Mapping Act established a Statewide mapping program to identify areas subject to violent shaking and ground failure. The program intends to assist cities and counties in protecting public health and safety. The Seismic Hazards Mapping Act requires the State Geologist to delineate various seismic hazard zones and requires cities, counties, and other local permitting agencies to regulate certain development projects within these zones. As a result, the California Geological Survey is mapping Seismic Hazards Mapping Act Zones and has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, ground shaking, and landslides, primarily the San Francisco Bay Area and Los Angeles basin.

Paleontological Resource Regulations

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient animals and plants, trace remains, and microfossils. These are in part valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources 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 will disturb or destroy a unique paleontological resource or site or unique geologic feature.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within city limits. The following policies are specific to geology and soils and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Geology and Soil Policies

Policies	Description
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.

[35] California Geological Survey. 2021. Earthquake Zones of Required Investigation. Website: https://maps.conservation.ca.gov/cgs/EQZApp/. Accessed September 20, 2021.

Envision San José 2040 General Plan Relevant Geology and Soil Policies

Policies	Description
	State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Standards Code will be followed.
Action EC-3.10	Require that a Certificate of Geologic Hazard Clearance be issued by the Director of Public Works prior to issuance of grading and building permits within defined geologic hazard zones related to seismic hazards.
Policy EC-4.2	Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.
Policy EC-4.4	Require all new development to conform to the City of San José's Geologic Hazard Ordinance.
Policy EC-4.5	Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 1 and April 30.
Action EC-4.10	Require a Certificate of Geologic Hazard Clearance to be issued by the Director of Public Works prior to issuance of grading and building permits within defined geologic hazard zones.
Action EC-4.11	Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.
Action EC-4.12	Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.
Policy ES-4.9	Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

City of San José Municipal Code

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

4.7.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
a) 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.	☐	☐	☒	☐
b) Strong seismic ground shaking?	☐	☐	☒	☐
c) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
d) Landslides?	☐	☐	☒	☐
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
3. 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?	☐	☐	☒	☐
4. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	☐	☒	☐
5. 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?	☐	☐	☐	☒
6. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐

Impact Discussion

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

a) 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.

Less than significant impact. Surface rupture represents the breakage of ground along the surface trace of a fault. A surface rupture may result in particularly adverse consequences when buildings are located within the rupture zone. Building structures cannot accommodate rapid displacement involved with surface ruptures. To avoid seismic hazards, the Alquist-Priolo Earthquake Fault Zoning Act prohibits construction of structures for human occupancy in regions with active faults. Under the Act, the State Geologist establishes and maps out regulatory zones known as "earthquake fault zones" around the surface traces of active faults. The Seismic Hazards Mapping Act addresses non-surface fault rupture and earthquake hazards, including seismically induced landslides and liquefaction. The Act resulted in a mapping program that identifies areas with the potential for liquefaction, landslide, strong ground shaking, or other earthquake and geologic hazards.

There are several known faults in Northern California, in the project site vicinity in general, and within the project site specifically. The San Andreas Fault line passes through the Santa Cruz Mountains southwest of the City of San José. Two other major active faults near the City are the Hayward Fault, located to the east, and the Calaveras Fault, located in the hills to the northeast. The two faults merge in a series of splays and step-overs in the hills between Mission Peak and Mount Hamilton. The Calaveras Fault is located about 5.3 miles northeast of the site and the southeast segment of the Hayward Fault is located about 2.5 miles east. The nearest mapped surface trace of the Monte Vista-Shannon Fault is located approximately 4.1 miles south of the subject site. In addition to known active faults, the City of San José mapped several smaller potentially active faults, shown on General Plan Fault Hazard Maps.

The geotechnical Investigation prepared for the proposed project (Appendix D) determined that the Piercy Fault zone, a 70-foot-wide fault zone that traverses the middle of the site, may cause potential seismic hazards for proposed structures. In order to mitigate potential impacts due to rupture of a known earthquake fault, the Geotechnical Investigation recommended a building exclusion zone be established along the surface trace of the Piercy Fault. The Geotechnical Investigation also recommended a 35-foot setback along the northeast boundary of this fault and a 25-foot setback along its southwestern edge. It was determined in the Geotechnical Investigation that with the implementation of the setback, which is accounted for in the project design, the potential for fault surface rupture affecting habitable structures would be low, and impacts would be reduced to a less than significant level. It should be noted that in July 2021, the City of San José provided a Certificate of Geologic Hazard Clearance to construct the proposed project, as designed, stating that clearance is contingent upon fulfillment of all recommendations of the project geotechnical report.[36]

In addition, implementation of the Standard Permit Conditions listed below would further reduce impacts to a less than significant level.

City Standard Permit Conditions

Avoid or Minimize Seismic Damage

- To avoid or minimize potential damage from seismic shaking, project construction shall use standard engineering and seismic safety design techniques. Complete building design and construction at the site in conformance with the recommendations of an approved

[36] City of San José Department of Public Works. 2021. Certificate of Geologic Hazard Clearance, Proposed Industrial Building, 455 Piercy Road, APN 678-93-030, Project No: 21-023716-GC. July 12.

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 entitlement process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on-site and off-site to the extent feasible and in compliance with the Building Code.

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- The project shall be constructed in accordance with the standard engineering practices in the California Building Standards Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Public Works Clearance

A Development Clearance shall be obtained from the Public Works Department and is subject to all applicable requirements to the satisfaction of the Director of Public Works.

b) Strong seismic ground shaking?

Less than significant impact. Hazards associated with earthquakes include surface rupture and ground shaking, and secondary hazards such as liquefaction. However, structural damage attributed to earthquakes largely stems from strong seismic ground shaking. The intensity of ground shaking expected at a particular site depends upon the magnitude of the earthquake, the distance to the epicenter, and the geology of the area between the epicenter and the property. A specific site may experience greater movement if it is underlain by poorly consolidated material and in proximity to the causative fault, or as a result of a strong seismic event.

According to the Association of Bay Area Governments (ABAG), Santa Clara County is categorized under the "Very Strong" shaking category.[37] The project site and the surrounding area could experience strong to violent ground shaking because of an earthquake on the Hayward Fault (southeast extension), as well as ground shaking associated with seismic activity on the San Andreas Fault. The intensity of ground shaking would vary with the distance and magnitude of the earthquake that causes the ground shaking.

To address seismic hazards and reduce risk, the City requires development projects to avoid unreasonable exposure to geologic hazards, including earthquakes, subsidence, liquefaction, and expansive soils. The General Plan contains policies that ensure that new development minimizes risks when placing people in known hazardous areas. The State of California has also established

[37] Association of Bay Area Governments (ABAG). 2021. Earthquake. Website: https://abag.ca.gov/our-work/resilience/data-research/earthquake. Accessed September 17, 2021.

minimum standards for safe building design through the CBC. The CBC contains specific requirements for seismic safety, excavation, foundations, retaining walls, and site demolition.

As required by the Standard Permit Condition listed below, a project-specific geotechnical investigation was prepared for the proposed project. The Geotechnical Investigation determined that the Piercy Fault zone, a 70-foot-wide fault zone that traverses the middle of the site, may cause potential seismic hazards for proposed structures and therefore, the project site may experience moderate to severe earthquakes that cause strong ground shaking within the proposed project's lifetime. The Geotechnical Investigation recommended building setback lines that extend along the northeastern and southwest limits of the fault zone and apply to any future habitable structures at the site. These setbacks are equal to 35 feet along the northeastern bounding fault and 25 feet along the southwestern surface trace that bounds the southwest edge of the fault zone. As shown in Figure 5 of the Geotechnical Investigation (Appendix D), the proposed industrial building is sited south of the fault zone and suggested setback. It was determined in the Geotechnical Investigation that with the implementation of the setback, the potential for fault surface rupture affecting habitable structures would be low. Furthermore, the proposed project would comply with the Standard Permit Condition below, which requires that building design and construction at the site be in conformance with the recommendations of the approved geotechnical investigation to avoid or minimize potential damage from seismic shaking. The City would ensure the project complies with requirements specified in the 2019 CBC (Title 24 of the California Code of Regulations). Compliance with applicable codes and regulations, as well as the Standard Permit Condition listed above, would ensure that potential impacts remain less than significant.

c) Seismic-related ground failure, including liquefaction?

Less than significant impact. Secondary hazards associated with earthquakes include liquefaction. Liquefaction is a seismic phenomenon in which loose, saturated granular and non-plastic, fine-grained soils lose their structure or strength when subjected to high-intensity ground shaking. The phenomenon occurs under three general conditions: shallow groundwater, low-density non-plastic soils, and high-intensity ground motion. The intensity of ground motion at a particular site depends on, among other things, poorly consolidated materials and proximity to the causative fault.

The City's Public GIS Viewer shows that the project site is subject to liquefaction.[38] However, the Geotechnical Investigation reviewed localized susceptibility to liquefaction and other associated hazards. The investigation determined that the western portion of the site is within a State-designated Liquefaction Hazard Zone, as shown on the Liquefaction Zone Map. However, a laterally extensive groundwater table has not been identified in published groundwater-themed compilations. Groundwater has not been encountered in the previous site-specific studies at and adjacent to the site, and groundwater conditions are likely quite variable near the east hills.

Subsurface explorations encountered very stiff to hard, clay and very dense, clayey sand with gravel underlain by Franciscan bedrock. In addition, the groundwater encountered is concluded to be

[38] City of San José. 2021. Public GIS Viewer. Website: https://csj.maps.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f. Accessed December 22, 2021.

perched and not indicative of aquifer groundwater levels. Therefore, the potential for liquefaction to impact the proposed improvements at the site is negligible.

Additionally, risks associated with liquefaction would be reduced and managed consistent with City-adopted regulations and policies, in conjunction with State building regulations. Further, the proposed project would be subject to Standard Permit Conditions described in Checklist Question 1(b), which requires that the proposed project be designed to withstand soil hazards identified on the site, including liquefaction. Therefore, potential impacts would be less than significant.

d) Landslides?

Less than significant impact. Physical factors such as slope, soil, vegetation, and precipitation influence the potential for landslides. Landslides require a slope, and may occur naturally from seismic activity, excessive saturation, and wildfires, or from unnatural conditions such as construction disturbance, vegetation removal, and excavation among other activities.

A portion of the hillside located just beyond the project site's northern boundary is located within a landslide hazard regulatory zone and has been mapped as a large landslide by the California Geological Survey.[39] Based on the Geotechnical Investigation research, investigation, mapping and field observations, the large-scale landslide mapped on this portion of the slope is interpreted as a dormant landslide and is unlikely to move in the future. Therefore, impacts would be less than significant.

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

Less than significant impact. Soil exposed by construction activities during project development could be subject to erosion if exposed to heavy rain, winds, or other storm events. Most of the erosion potential or loss of topsoil would occur during grading and excavation. Grading and ground disturbance increase the potential for accelerated erosion by removing protective vegetation or cover and changing natural drainage patterns.

According to the Geotechnical Investigation, debris flow events could be produced from a failure in the fill material that forms the downslope edge of the former irrigation-water conveyance channel located at the northeastern portion of the site. A debris flow retention wall is recommended along the sloping portion (which is the northeastern portion) of the site. Consistent with this recommendation, the proposed project includes a 6-foot-tall debris flow wall along the western and northern perimeter of the project footprint. The debris flow wall would line the entire parking area northwest of the proposed building and would line the main bioretention basin located at the northeastern portion of the site (Figure 5).

Projects that disturb one or more acres of soil are required to obtain the General Permit for Discharges of Stormwater Associated with Construction Activity (Construction General Permit),

[39] California Geological Survey. 2021. Landslide Inventory and Deep-Seated Landslide Susceptibility Map, San José East Quadrangle. Website: http://maps.conservation.ca.gov/cgs/lsi/. Accessed September 20, 2021.

issued by the California State Water Resources Control Board (State Water Board). The project site is 14.26-acres and would require a Construction General Permit.

The proposed project may be required to comply with General Plan Policy EC-4.5, which requires the preparation of an Erosion Control Plan for any grading occurring between October 1 and April 30. The proposed project would also conform to Standard Permit Condition described in Checklist Question 1(b), which requires covering of stockpiled and excavated soils, and installing ditches to divert runoff around excavations and graded areas. Therefore, erosion during grading activities would be minimized, and impacts to adjacent properties, creeks, and storm drainage systems would be less than significant.

Once operational, the City would require the proposed project to comply with all applicable regulations to reduce erosion. As discussed in Section 3.10, Hydrology and Water Quality, of this Initial Study, the proposed project incorporates specific design features, including bioretention basins, designed to retain stormwater or reduce runoff from entering local waterways. The proposed project also includes landscaping and drainage throughout the site, which would reduce the potential for soil erosion across the project site. Therefore, impacts would be less than significant.

3) 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?

Less than significant impact. According to the Geotechnical Investigation, a portion of the hillside located just beyond the north property line is located within a landslide hazard regulatory zone. Based on research, investigation, mapping and field observations, the large-scale landslide mapped on this portion of the slope is interpreted as a dormant landslide and is unlikely to move in the future. Hypothetical debris flow scenarios were evaluated and found debris flow events could be produced from a failure in the fill material that forms the downslope edge of the former irrigation-water conveyance channel located at the northeastern portion of the site. A debris flow retention wall is recommended within the sloping portion of the site. Consistent with this recommendation, the proposed project includes a 6-foot-tall debris flow wall along the western and northern perimeter of the project footprint. The debris flow wall would line the entire parking area northwest of the proposed building and would line the main bioretention basin located at the northeaster portion of the site.

Lateral spreading is horizontal/lateral ground movement of relatively flat-lying soil deposits that flow toward a free face such as a channel or open body of water and is typically associated with liquefaction. Because the Geotechnical Investigation determined the potential for liquefaction is negligible, and there are no open faces within a distance considered susceptible to lateral spreading, therefore the potential for lateral spreading is also low.

Subsidence is the gradual settling or sinking of the ground surface with little or no horizontal movement. Subsidence is generally related to the substantial overdraft of groundwater or petroleum reserves from underground reservoirs. The project site does not lie above an oil field or drinking water production well based on the Phase I ESA and review of the California Geologic Energy

Management Division (CalGEM, formerly DOGGR) Well Finder mapping application.[40] Therefore, the proposed project would have a less than significant effect related to subsidence.

As discussion in Checklist Question 1(c), groundwater had not been encountered during the Geotechnical Investigation by Cornerstone Earth Group, and it was determined that the potential for liquefaction to impact the proposed project site is negligible.

Lastly, the proposed project would comply with the Standard Permit Condition discussed above, which requires that building design and construction at the site be in conformance with the recommendations of the Department of Public Works-approved geotechnical investigation. Therefore, the proposed project would have a less than significant impact related to on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

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

Less than significant impact. Expansive soils can change dramatically in volume depending on moisture content. When wet, these soils can expand; conversely, when dry, they can contract or shrink. Sources of moisture that may trigger this shrink-swell phenomenon include seasonal rainfall, landscape irrigation, utility leakage, or perched groundwater. Expansive soils can also exhibit wide cracks during prolonged dry conditions. Soils with moderate to high expansion potential are a common cause of structural damage. Expansive soils may cause substantial structural damage to building foundations, underground utilities, and other improvements. Structural damage may include warping and cracking or rupture of underground utility lines if a project is not designed or constructed properly for local conditions.

According to the Geotechnical Investigation, highly expansive surficial soils general blanket the site. As such, it was recommended that slabs-on-grade should have sufficient reinforcement and be supported on a layer of non-expansive fill. In addition, footings should extend below the zone of seasonal moisture fluctuation. As required by Standard Permit Condition described in Question 1(b), the proposed project would be constructed in conformance with the recommendations of the approved geotechnical investigation and the standard engineering practices in the 2019 CBC, as adopted by the City of San José. These standard practices would ensure that future building on the site is designed to properly account for soils-related hazards, including expansive soils. Therefore, impacts would be less than significant.

5) 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?

No impact. The currently vacant project site has been partially graded and has had utilities installed. Storm drain fixtures are already established on the existing project site and are connected to the City owned and maintained sanitary sewer system. The proposed project would connect to existing sanitary sewer collection systems and provide adequate sewer and wastewater services. The City's

[40] California Geologic Energy Management Division (CalGEM). 2021. Well Finder Mapping Application. Website: https://maps.conservation.ca.gov/doggr/wellfinder/#openModal/-121.78549/37.27654/12. Accessed December 22, 2021.

sanitary sewer system would transfer wastewater to treatment existing facilities for processing and disposal. The proposed project does not include new septic tanks or alternative wastewater disposal systems. Therefore, no impact would occur.

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

Less than significant impact. As stated in the General Plan Environmental Impact Report (EIR), areas with the highest sensitivity are those where geologic formations known to contain fossils are found close to the ground surface. The site does not contain any unique geologic features and is on nonfossiliferous geologic units. In addition, a paleontological records search was conducted on September 17, 2021. The results are included as Appendix D of this document. The paleontological search area focused on the Santa Clara Formation, the Coast Range Ophoilite Complex, and the Franciscan Assemblage. The greatest potential of encountering significant paleontological resources would be if the Santa Clara Formation is present in the shallow subsurface of the project site. Being surficially mapped at the southeastern edge of the 0.5-mile search area, however, it is more likely to be at a depth below that of the deepest project-related excavations. Therefore, impacts would be less than significant. However, in the unlikely event that vertebrate fossils are discovered during construction, the project applicant shall adhere to the Standard Permit Condition listed below.

City Standard Permit Condition

Paleontological Resources

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of 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.

Mitigation Measures

None have been identified.

4.7.3 - Conclusion

With adherence to the Standard Permit Conditions, impacts to geology and soils would be less than significant.

4.8 - GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on project-specific GHG emissions modeling results generated using CalEEMod, Version 2016.3.2. The modeling data is provided in its entirety as part of the Air Quality and Greenhouse Gas Report, included in Appendix A.

4.8.1 - Environmental Setting

Unlike emissions of criteria and toxic air pollutants discussed in Section 3.3 and have local or regional impacts, emissions of GHGs have a broader, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere over time. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

Applicable Plans, Policies, and Regulations

Legislative Actions to Reduce Greenhouse Gas Emissions

California State Legislature has enacted a series of bills to reduce GHGs. Some legislation such as the landmark AB 32 California Global Warming Solutions Act of 2006 was specifically enacted to address GHG emissions. Other legislation such as Title 24 and Title 20 energy standards were originally adopted for other purposes such as energy and water conservation, but also provide GHG reductions. This section describes the major provisions of the legislation.

California AB 1493, enacted on July 22, 2002, required the ARB to develop and adopt regulations that reduce GHGs emitted by passenger vehicles and light duty trucks. Implementation of the regulation was delayed by lawsuits filed by automakers and by the EPA's denial of an implementation waiver. The EPA subsequently granted the requested waiver in 2009, which was upheld by the U.S. District Court for the District of Columbia in 2011. The standards were phased in during the 2009 through 2016 model years.

The second phase of the implementation for the Pavley Bill was incorporated into Amendments to the Low Emission Vehicle (LEV) Program referred to as LEV III or the Advanced Clean Cars program. The Advanced Clean Car program combines the control of smog-causing pollutants and GHG emissions into a single coordinated package of requirements for model years 2017 through 2025. The regulation will reduce GHGs from new cars by 34 percent from 2016 levels by 2025. The new rules will reduce pollutants from gasoline and diesel-powered cars, and deliver increasing numbers of zero-emission technologies, such as full battery electric cars, newly emerging plug-in hybrid EVs and hydrogen fuel cell cars. The regulations will also ensure adequate fueling infrastructure is available for the increasing numbers of hydrogen fuel cell vehicles planned for deployment in California. The California State Legislature enacted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires that GHGs emitted in California be reduced to 1990 levels by the year 2020. "Greenhouse gases" as defined under AB 32 include CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Since AB 32 was enacted, a seventh chemical, nitrogen trifluoride, has also been added to the list of GHGs.

The ARB's Climate Change Scoping Plan contains measures designed to reduce the State's emissions to 1990 levels by the year 2020 to comply with AB 32. The Scoping Plan identifies recommended measures for multiple GHG emission sectors and the associated emission reductions needed to achieve the year 2020 emissions target—each sector has a different emission reduction target. Most of the measures target the transportation and electricity sectors.

The ARB approved the First Update to the Scoping Plan on May 22, 2014. The Update identifies the next steps for California's climate change strategy. The Update shows how California continues on its path to meet the near-term 2020 GHG limit, but also sets a path toward long-term, deep GHG emission reductions. The report establishes a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050. The Update identifies progress made to meet the near-term objectives of AB 32 and defines California's climate change priorities and activities for the next several years.

The Sustainable Communities and Climate Protection Act of 2008 was signed into law on September 30, 2008. According to SB 375, the transportation sector is the largest contributor of GHG emissions, which emits over 40 percent of the total GHG emissions in California. The law requires metropolitan planning organizations to include sustainable community strategies in their regional transportation plans for reducing GHG emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies.

The Governor signed SB 32 in September of 2016, giving the ARB the statutory responsibility to include the 2030 target previously contained in Executive Order B-30-15 in the 2017 Scoping Plan Update. SB 32 states, "in adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions authorized by this division, the state [air resources] board shall ensure that Statewide GHG emissions are reduced to at least 40 percent below the Statewide GHG emissions limit no later than December 31, 2030." The 2017 Climate Change Scoping Plan Update addressing the SB 32 targets was adopted on December 14, 2017.

On September 12, 2002, Governor Gray Davis signed SB 1078, requiring California to generate 20 percent of its electricity from renewable energy by 2017. SB 107 changed the due date to 2010 instead of 2017. On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order S-14-08, which established a Renewable Portfolio Standard target for California requiring that all retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Governor Schwarzenegger also directed the ARB (Executive Order S-21-09) to adopt a regulation by July 31, 2010, requiring the State's load serving entities to meet a 33 percent renewable energy target by 2020. The ARB approved the Renewable Electricity Standard on September 23, 2010, by Resolution 10-23.

The legislature recently approved, and the Governor signed SB 350, which reaffirms California's commitment to reducing its GHG emissions and addressing climate change. Key provisions include an increase in the renewables portfolio standard, higher energy efficiency requirements for buildings, initial strategies toward a regional electricity grid, and improved infrastructure for EV charging stations. Specifically, SB 350 requires the following to reduce Statewide GHG emissions:

- Increase the amount of electricity procured from renewable energy sources from 33 percent to 50 percent by 2030, with interim targets of 40 percent by 2024, and 25 percent by 2027.

- Double the energy efficiency in existing buildings by 2030. This target will be achieved through the California Public Utilities Commission (CPUC), the California Energy Commission (CEC), and local publicly owned utilities.
- Reorganize the Independent System Operator (ISO) to develop additional regional electrify transmission markets and to improve accessibility in these markets, which will facilitate the growth of renewable energy markets in the western United States.

The Water Conservation Act of 2009 directs urban retail water suppliers to set individual 2020 per capita water use targets and begin implementing conservation measures to achieve those goals. Meeting this Statewide goal of 20 percent decrease in demand will result in a reduction of almost 2 million acre-feet in urban water use in 2020.

BAAQMD CEQA Air Quality Guidelines

The BAAQMD is the primary agency responsible for ensuring that air quality standards (NAAQS and CAAQS) are attained and maintained in the Air Basin through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The BAAQMD prepares plans to attain ambient air quality standards in the Air Basin. BAAQMD prepares ozone attainment plans for the national ozone standard, Clean Air Plans for the California standard, and PM plans to fulfill federal air quality planning requirements. The BAAQMD also inspects stationary sources of air pollution; responds to citizen complaints; monitors ambient air quality and meteorological conditions; and implements programs and regulations required by the Clean Air Act, the Clean Air Act Amendments of 1990, and the California Clean Air Act.

The BAAQMD developed quantitative thresholds of significance for its CEQA Guidelines in 2010, which were also included in its updated subsequent guidelines. BAAQMD's adoption of the 2010 thresholds of significance was later challenged in court. In an opinion issued on December 17, 2015, related to the BAAQMD CEQA Guidelines, the California Supreme Court held that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards unless the project would exacerbate existing environmental hazards. The Supreme Court also found that CEQA requires an analysis of human exposure to environmental hazards in specific circumstances, such as development near airports and the siting of schools on or near hazardous waste sites. The Supreme Court further held that public agencies may voluntarily conduct this analysis for their own public projects when not required by CEQA (*CBIA v. BAAQMD [2016] 2 Cal.App.5th 1067, 1083*).

In view of the Supreme Court's opinion, the BAAQMD published a new version of its CEQA Guidelines in May 2017. The BAAQMD CEQA Guidelines state that local agencies may rely on thresholds designed to reflect the impact of locating development near areas of toxic air contamination where such analysis is required by CEQA, or where the agency determines such analysis would assist in making a decision about the project. However, the thresholds are not mandatory, and agencies should apply them only after determining that they reflect an appropriate measure of a project's impacts. The BAAQMD's Guidelines for implementation of the thresholds are for informational purposes only, to assist local agencies.

Bay Area 2017 Clean Air Plan

The Bay Area 2017 Clean Air Plan addresses air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the Clean Air Plan is climate protection. The 2017 Clean Air Plan includes emission control measures and performance objectives, consistent with the State's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

City of San José Building Reach Code

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

Private Sector Green Building Policy (Council Policy 6-32)

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED™), GreenPoint, or Build-It-Green checklist as part of their development permit applications. Council Policy 6-32 "Private Sector Green Building Policy," adopted in October 2008, establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. It fosters practices in the design, construction, and maintenance of buildings that will minimize the use and waste of energy, water, and other resources in the City of San José. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 17 below.

Table 17: Private Sector Green Building Policy Applicable Projects

Applicable Project Minimum Green Building Rating	Minimum Green Building Rating
Commercial/Industrial—Tier 1 (Less than 25,000 square feet)	LEED™ Applicable New Construction Checklist
Commercial/Industrial—Tier 2 (25,000 square feet or greater)	**LEED™ Silver**
Residential—Tier 1 (Less than 10 units)	GreenPoint or LEED™ Checklist
Residential—Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED™ Certified
High Rise Residential (75 feet or higher)	LEED™ Certified
Source: City of San José. Private Sector Green Building Policy: Policy Number 6-32. October 7, 2008. Website: https://www.sanJoséca.gov/DocumentCenter/Home/View/363.	

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within city limits. The following policies are specific to reducing GHG emissions and are relevant to the proposed project.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
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-2.4	Promote energy efficient construction industry practices.
Policy MS-2.6	Promote roofing design and surface treatments that reduce the heat island effect of new and existing development and support reduced energy use, reduced air pollution, and a healthy urban forest. Connect businesses and residents with cool roof rebate programs through City outreach efforts.
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.
Policy MS-5.6	Enhance the construction and demolition debris recycling program to increase diversion from the building sector.
Policy MS-10.5	In order to reduce vehicle miles traveled and traffic congestion, require new development within 2,000 feet of an existing or planned transit station to encourage the use of public transit and minimize the dependence on the automobile through the application of site design guidelines and transit incentives.
Policy MS-16.5	Establish minimum requirements for energy efficiency measures and on-site renewable energy generation capacity on all new housing developments.
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long lifespan. Strongly discourage small-lot and single-family detached residential product types in growth areas.

Envision San José 2040 General Plan Relevant Greenhouse Gas Policies

Policies	Description
Policy CD-5.1	Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.
Policy TR-1.16	Develop a strategy to construct a network of public and private alternative fuel vehicle charging/fueling stations citywide. Revise parking standards to require the installation of electric charging infrastructure at new large employment sites and large, multiple family residential developments.
Policy H-4	Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the Envision General Plan and in conformance with the City's Green Building Ordinance.
Policy H-4.2	Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.
Policy H-4.3	Encourage the development of higher residential densities in complete, mixed-use, walkable and bike able communities to reduce energy use and greenhouse gas emissions.

City's GHG Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions. The General Plan's multiple policies and actions have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's GHG Reduction Strategy is intended to meet the mandates outlined in the BAAQMD CEQA Guidelines and standards for "qualified plans," as established by the BAAQMD. In addition, the City's Green Vision, as reflected in the City's GHG Reduction Strategy, includes a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions.

The City's GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in four categories: built environment and energy, land use and transportation, recycling and waste reduction, and other GHG reduction measures. Some measures are mandatory for all proposed development projects, and others are voluntary.

The primary test for consistency with the City's GHGRS is conformance with the City's GHGRS Project Compliance Checklist. Pursuant to CEQA Guidelines, all land use development proposals are required to evaluate consistency with the goals and policies outlined in the General Plan designed to reduce GHG emissions, using the GHGRS Project Compliance Checklist. Consistent with the requirements under CEQA Guidelines Section 15183.5, projects consistent with the GHGRS would have a less than

significant impact on GHG emissions through 2030 and would not conflict with targets in the currently adopted State of California Climate Change Scoping Plan through 2030.

City of San José Municipal Code

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

- Green Building Ordinance (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)
- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)
- All-Electric Ordinance (Chapter 17.845)

4.8.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☒	☐	☐
2. Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☒	☐	☐

Impact Discussion

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

and

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

Less than significant impact with mitigation incorporated. Both construction and operational activities have the potential to generate GHG emissions. The proposed project would generate GHG emissions during temporary (short-term) construction activities such as demolition, site preparation, grading, building construction, paving, and architectural coating activities; running of construction equipment engines including movement of on-site heavy-duty construction vehicles; hauling

materials to and from the project site; asphalt paving; coating and construction worker motor vehicle trips.

Long-term, operational GHG emissions would result from project-generated vehicular traffic, on-site combustion of natural gas, operation of any landscaping equipment, off-site generation of electrical power over the life of the proposed project, the energy required to convey water to and wastewater from the project site, and the emissions associated with the hauling and disposal of solid waste from the project site.

As previously discussed, the City's GHGRS was developed and adopted to assist in streamlining projects' CEQA environmental review for GHG emissions under CEQA Guidelines Section 15183.5. The City's GHGRS identifies GHG emissions reduction measures to be implemented by development projects in four categories: built environment and energy, land use and transportation, recycling, and waste reduction, and other GHG reduction measures. Some measures are mandatory for all proposed development projects, and others are voluntary. Pursuant to CEQA Guidelines, all land use development proposals are required to evaluate consistency with the goals and policies outlined in the General Plan designed to reduce GHG emissions, using the GHGRS Project Compliance Checklist. The proposed project would have a significant impact if it were determined to be inconsistent with the City's GHGRS Project Compliance Checklist. Pursuant to CEQA Guidelines Sections 15064(h)(3), 15130(d), and 15183(b), the proposed project's incremental contribution to cumulative GHG emissions effects may be determined not to be cumulatively considerable if it complies with the requirements of the GHGRS.

City of San José Greenhouse Gas Reduction Strategy

The City of San José GHGRS was adopted in August 2020. The City's GHGRS includes GHG reduction measures applicable to all development projects in the City of San José which are subject to CEQA environmental review. These GHG reduction measures aim to improve energy efficiency and conservation, increase the amount of renewable energy produced in the City, reduce water-related GHG emissions, decrease the amount of waste sent to landfills, reduce vehicle trips, and promote bicycling, walking, and public transit. Compliance with the GHGRS is determined using the Development Compliance Checklist provided as part of the GHGRS. For nonresidential projects, the applicable parts of the Development Compliance Checklist include Table A, General Plan Consistency, and Table B, 2030 Greenhouse Gas Reduction Strategy Compliance. Table B of the GHGRS contains two parts; Part 1 applies to residential projects only and Part 2 applies to all residential and nonresidential projects. The GHGRS Project Compliance Checklist is included in Appendix E and contains the proposed project's consistency with the measures contained in Table A of the GHGRS and Part 2 of Table B of the GHGRS.

GHGRS Strategy Consistency

The following analysis demonstrates the proposed project would be consistent with the City's seven GHGRS strategies contained in the GHGRS Checklist.

GHGRS No. 1 The City will implement the SJCE program to provide residents and businesses access to cleaner energy at competitive rates.

- The proposed project would enroll in SJCE's TotalGreen program, which would reduce project operational GHG emissions by utilizing 100 percent GHG-free electricity. As a result, the proposed project would be consistent with GHGRS No. 1.

GHGRS No. 2 The City will implement its building Reach Code ordinance (adopted September 2019) and its prohibition of natural gas infrastructure ordinance (adopted October 2019) to guide the City's new construction toward zero net carbon (ZNC) buildings.

- The proposed project would be consistent with the City's Reach Code ordinance because the proposed buildings would be built to LEED™ Silver standards, include solar readiness, and EV readiness. The proposed project would also be designed to be all-electric, prohibiting the future use of natural gas, consistent with the City's natural gas prohibition ordinance. As a result, the proposed project would be consistent with GHGRS No. 2.

GHGRS No. 3 The City will expand development of rooftop solar energy through the provision of technical assistance and supportive financial incentives to make progress toward the Climate Smart San José goal of becoming a one-gigawatt solar city.

- The proposed project would not include rooftop solar panels; however, the proposed project would be developed compliant with standards contained in the 2019 CBC, which includes structural features for nonresidential buildings to accommodate future rooftop solar. Additionally, the applicant of the proposed project has committed to enroll in the SJCE TotalGreen program, which provides 100 percent carbon free electricity. As a result, the proposed project would be consistent with GHGRS No. 3.

GHGRS No. 4 The City will support a transition to building decarbonization through increased efficiency improvements in the existing building stock and reduced use of natural gas appliances and equipment.

- This strategy is not applicable to the proposed project because it would not retrofit an existing building.

GHGRS No. 5 As an expansion to Climate Smart San José, the City will update its Zero Waste Strategic Plan and reassess zero waste strategies. Throughout the development of the update, the City will continue to divert 90 percent of waste away from landfills through source reduction, recycling, food recovery and composting, and other strategies.

- The proposed project intends to include dedicated space for composting or organic waste disposal; however, the engineering site plans for the proposed project do not demonstrate dedicated organic waste space at the time this analysis was prepared and therefore cannot be guaranteed. Nonetheless, waste collection servicers in the city, which would serve the proposed project, would be

required to comply with regulations and ordinances that support this measure. As a result, the proposed project would be consistent with GHGRS No. 5.

GHGRS No. 6 The City will continue to be a partner in the Caltrain Modernization Project to enhance local transit opportunities while simultaneously improving the city's air quality.

- The proposed project would not be within 0.5-mile of an existing Caltrain station; however, the proposed project would include convenient bicycle parking that would help encourage employee biking and reduce VMT. The proposed project would also be located within walking distance (1 mile) of an existing Bus Route 42 station at Hellyer Avenue and Piercy Road, which may contribute to potential vehicle use reductions. Moreover, although a Transportation Demand Management (TDM) program is not currently proposed to comply with this strategy, the proposed project would be required to implement MM TRANS-1.1 and MM TRANS-1.2 in Section 4.17, Transportation, which would ensure the proposed project's VMT would be reduced below City thresholds by providing TDM measures and encouraging employees to carpool and/or utilize alternative commute options. As a result, the proposed project would be consistent with GHGRS No. 6 after mitigation.

GHGRS No. 7 The City will expand its water conservation efforts to achieve and sustain long-term per capita reductions that ensure a reliable water supply with a changing climate, through regional partnerships, sustainable landscape designs, green infrastructure, and water efficient technology and systems.

- The proposed project would be consistent with this strategy because it would include bioretention areas that would reduce peak stormwater flows and retain water on-site. Thus, the proposed project would help conserve water on-site and improve groundwater recharge and also reduce water demand for landscaping. As a result the proposed project would be consistent with GHGRS No. 7.

Summary

As presented above and supported by the GHGRS Development Checklist contained in Appendix E, the proposed project is consistent with the applicable mandatory measures of the City of San José GHGRS with implementation of MM TRANS-1.1 and MM TRANS-1.2 in Section 4.17, Transportation. As such, the proposed project would be considered consistent with the GHG reduction targets codified by SB 32 and the general measures contained in the ARB's 2017 Scoping Plan. Considering this information, the proposed project would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce the emissions of GHGs with mitigation.

Impact GHG-1

The proposed project would be inconsistent with GHGRS Strategy No. 6 because no TDM program to reduce VMT below City thresholds defined in Council Policy 5-1 is included in the proposed project before mitigation.

Mitigation Measures

Refer to **MM TRANS-1.1** and **MM TRANS-1.2** (see Section 4.17, Transportation).

City Standard Permit Conditions

None have been identified.

4.8.3 - Conclusion

With the implementation of MM TRANS-1.1 and MM TRANS-1.2, impacts regarding GHG emissions would be less than significant.

4.9 - HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on the Phase I Environmental Site Assessment (Phase I ESA) Report prepared for the project site by Innovative & Creative Environmental Solutions (ICES)[41] on February 5, 2021. The Phase I ESA is included in Appendix F.

4.9.1 - Environmental Setting

The project site consists of an irregular rectangular-shaped parcel covering an area of approximately 14.26 acres. The project site is currently vacant and appears to have been partially graded, with utilities installed. The majority of the site is relatively flat, except on the northeast area where there is a northwest-southeast trending ridge. Serpentine bedrock is exposed in places at the base of the hill, along the northeastern perimeter. A construction staging area is located at the northwestern portion of the site.

Applicable Plans, Policies, and Regulations

Federal Aviation Regulation Part 77 Rule

Federal Aviation Regulation Part 77 "Objects Affecting Navigable Airspace" provides navigable airspace criteria for airports and imaginary surface criteria for heliports. Federal Aviation Regulation Part 77 regulates the safe and efficient use of navigable airspace and navigational facilities. Regulations cover construction noticing requirements, standards for determining obstructions to air navigation or navigational facilities, aeronautical studies and determinations, and petitions for discretionary review.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) regulates hazardous waste from the time that the waste is generated through its management, storage, transport, and treatment until its final disposal. The EPA authorizes the California Department of Toxic Substances Control (DTSC) to administer RCRA in California. DTSC acts as the general agency for soil and groundwater cleanup projects and establishes cleanup and action levels for subsurface contamination that are equal to, or more restrictive than, federal levels.

Comprehensive Environmental Response, Compensation and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was designed to clean up abandoned hazardous waste sites that may endanger public health or the environment. The law authorizes the EPA to identify parties responsible for contamination of sites and compel the parties to clean up the sites. Where responsible parties cannot be found, the EPA is authorized to perform the cleanup using a special trust fund. This law outlines the potential liability related to the cleanup of hazardous substances, available defenses to such liability, appropriate inquiry into site status under Superfund, and statutory definitions of hazardous substances and petroleum products.

[41] Innovative & Creative Environmental Solutions. 2021. Phase I Environmental Site Assessment 465 Piercy Road San José, California. February 5.

The Cortese List

The Cortese List (Hazardous Waste and Substances Site List) is a document used by State, local agencies, and developers to comply with CEQA requirements to consider Government Code Section 5962.5 in evaluating proposed development projects. The Government Code requires the DTSC to compile and update a list of hazardous waste sites, handling facilities, disposal facilities, and abandoned sites.

Santa Clara County Department of Environmental Health

The Santa Clara County Department of Environmental Health acts as the local oversight agency for investigation and cleanup of petroleum releases from Underground Storage Tanks (USTs) through implementation of the local oversight program by contract with the State and Regional Water Resources Control Board.

San Francisco Bay Regional Water Quality Control Board

There are nine RWQCBs throughout the State. The San Francisco Bay RWQCB has jurisdiction over projects in the City of San José. Individual RWQCBs function as the lead agencies responsible for identifying, monitoring, and cleaning up Leaking Underground Storage Tanks (LUSTs). Storage of hazardous materials in USTs is regulated by the State Water Board, which oversees the nine RWQCBs.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within city limits. The following policies are specific to hazards and hazardous materials and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Hazardous Material Policies

Policies	Description
Policy EC-7.1	For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine whether any potential environmental conditions exist that could adversely impact the community or environment.
Policy EC-7.2	Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, State and federal laws, regulations, guidelines and standards.
Policy EC-7.4	On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations.
Policy EC-7.5	On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/ or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Envision San José 2040 General Plan Relevant Hazardous Material Policies

Policies	Description
Policy EC-7.6	The City will encourage use of green building practices to reduce exposure to volatile or other hazardous materials in new construction materials.
Policy EC-7.7	Determine for any development or redevelopment site that is within 1,000 feet of a known, suspected, or likely geographic ultramafic rock unit (as identified in maps developed by the Department of Conservation – Division of Mines and Geology) or any other known or suspected locations of serpentine or naturally occurring asbestos, if naturally occurring asbestos exists and, if so, comply with the Bay Area Air Quality Management District's Asbestos Airborne Toxic Control Measure requirements.
Action EC-7.8	When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazardous materials found in the soil, groundwater, soil vapor, or in existing structures.
Action EC-7.9	Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.
Action EC-7.10	Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.
Action EC-7.11	Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.
Policy MS-13.2	Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.9.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
2. 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?	☐	☒	☐	☐

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25-mile of an existing or proposed school?	☐	☐	☒	☐
4. 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?	☐	☐	☒	☐
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☒	☐
6. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
7. Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☒	☐

Impact Discussion

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

Less than significant impact. The proposed project involves development of a 121,580-square-foot light industrial building. The proposed activities would likely include the on-site storage and use of cleaning supplies and maintenance chemicals in small quantities. The small quantities of cleaning supplies and maintenance chemicals used on-site would not pose a risk to adjacent land uses. The anticipated use of the proposed building is for a high-cube storage and distribution facility, with an ancillary office use. Any chemical storage and/or use of hazardous materials would occur in compliance with existing regulations to ensure public health and safety and would be verified at the time occupancy permits are issued. Although the proposed project would operate as a high-cube storage and distribution facility with no significant use of heavy chemicals or pollutants, the transport, use, and disposal of these operational substances is controlled and regulated by RCRA; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Federal Clean Air Act; and the Occupational Safety and Health Administration (OSHA), which regulates worker safety hazards. For these reasons, the proposed project would not create a significant hazard to the public or environment from the use, transport, or storage of hazardous materials, and would result in less than significant impacts.

2) 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?

Less Than Significant Impact with mitigation incorporated. The project site was previously used as an orchard, prior to 1940, but has remained vacant since. According to the Phase I ESA prepared by ICES, it was concluded that there are no on-site Recognized Environmental Conditions (RECs), no on-site Historical Recognized Environmental Conditions (HRECs), and no on-site Controlled Recognized Environmental Conditions (CRECs). RECs are defined by the presence of any hazardous substances or petroleum products in or at the property. CRECs are defined as a past release of hazardous substances or petroleum products that have been addressed to the satisfaction of the applicable regulatory authority. HRECs are defined as a past release of hazardous substances that occurred in connection with the property. However, since the project site and neighboring area historically have been used for agricultural applications, the Phase I ESA recommended that soil samples be collected prior to excavation and analyzed for organochlorine pesticides, arsenic, lead, and mercury. In addition, the Phase I ESA recommended sampling for naturally occurring asbestos and metals for any disturbance of the serpentine bedrock in the northeastern portion of the site. To address these concerns, the proposed project would implement MM HAZ-1, which would require completion of a Phase II soil contamination investigation to evaluate past agricultural use on the project site, and MM HAZ-2, which would require preparation of an Asbestos Dust Mitigation Plan (ADMP) to address potential impacts associated with disturbance of naturally occurring asbestos. Therefore, with compliance with MM HAZ-1 and MM HAZ-2 below, impacts would be reduced to a less than significant level.

3) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?

Less than significant impact. The nearest school to the project site, Carrington College, is located approximately 0.75 miles south of the project site. In addition, the nearest elementary school, Rachel Carson Elementary, is approximately 4 miles west of the project site. The nearest K-8 school, River Glen, is 7.4 miles northwest of the project site. As described above, operation of the proposed project would not involve the use, transport, or disposal of hazardous or acutely hazardous materials. While some chemicals or hazardous materials may be stored or used on-site in conjunction with the proposed industrial office uses, all storage or use of these materials would occur in compliance with existing regulations to ensure public health and safety. Thus, the proposed project would not emit hazardous emissions or handle hazardous materials that could affect the nearby school. Impacts would be less than significant.

4) 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?

Less than significant impact. The historical land use of the project site was identified as an orchard prior to 1940. The project site has been vacant since 1940.

According to the Phase I ESA prepared for the proposed project (Appendix F), the project site is not on the Cortese List. The nearest GeoTracker case (T0608502138) is located approximately 0.6-mile southwest of the project site and involved soil contamination.[42] Because the cleanup site for this case was declared closed as of March 1999 by the Santa Clara County Local Oversight Program, contamination from the site would not pose as a hazard to the public or to the environment. The nearest Envirostor case (60001755) is located approximately 0.4 miles northwest of the project site.[43] As this is a permit case that has been inactive since January 2012, contamination from the site would not pose as a hazard to the public or to the environment. Therefore, impacts would be less than significant.

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

Less than significant impact. The project site is located approximately 5.5 miles south of the Reid-Hillview Airport. The project site is not located within any of the Airport Safety Zones delineated in the Comprehensive Land Use Plan for the Reid-Hillview of Santa Clara County Airport, adopted by the Santa Clara County Airport Land Use Commission (ALUC).[44] Any development of 120 feet in height or greater at the site would require Federal Aviation Administration (FAA) notification for airspace safety review. Maximum height of the proposed project would be 48 feet. Thus, airspace safety review is not required for the project. The project site is located outside of noise contours for the airport and would not be exposed to excessive noise levels due to airport activities. For these reasons, the proposed project would not result in a safety hazard or excessive noise for people working at the project site and impacts would be less than significant.

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

Less than significant impact. The proposed project would not result in modifications to existing roadways in a way that would impede emergency access or evacuation. Consistent with the Fire Code, the City Fire Department would review the site plan for the project to ensure adequate emergency vehicle access. The proposed project would not impair or interfere with the implementation of an adopted City of San José or County of Santa Clara emergency response plan or emergency evacuation plan. Impacts would be less than significant.

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

Less than significant impact. As described in Section 4.19 Wildfire, the majority of the project site is located in a Local Responsibility Area (LRA) and a portion of the site is located in a High Fire Hazard

[42] California State Water Resources Control Board (State Water Board). 2021. GeoTracker – Coyote Creek Business Park (T0608502138). Website: https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608502138. Accessed December 20, 2021.

[43] California Department of Toxic Substance Control (DTSC). 2022. EnviroStore – Nanosolar (60001755). Website: https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=60001755. Accessed February 9, 2022.

[44] Santa Clara County Airport Land Use Commission (ALUC). 2007. Comprehensive Land Use Plan Santa Clara County Reid-Hillview Airport. October 24. Amended November 18, 2020. Website: https://stgenpln.blob.core.windows.net/document/ALUC_RHV_CLUP.pdf. Accessed September 17, 2021.

Severity Zone, according to the California Department of Forestry and Fire Protection (CAL FIRE). Although the project site is relatively flat with a ridge on the northeast side, it is also located in an area adjacent to unmanaged open space and is potentially a recognized fire prone area as indicated by CAL FIRE. The proposed project would comply with the General Plan policies, the City Municipal Code, the California Fire Code, and the 2019 CBC. Additionally, the nearest fire station is Station No. 35, located approximately 1.4 miles southwest of the project site, or approximately a five-minute drive from the station to the project site. With compliance to policies and regulations that would reduce impacts from wildland fires and services available from the Fire Department, implementation of the proposed project would not expose people or structures to significant risk from wildland fires and potential impacts would be reduced to a less than significant level.

Impact HAZ-1

Construction of the proposed project has the potential to expose the public and environment to hazardous materials (organochlorine pesticides and pesticide-based metals, arsenic, and lead) in excess of RWQCB environmental screening levels, due to past agricultural use of the site.

Mitigation Measures

MM HAZ-1 Prior to issuance of any demolition or grading permits, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use. The Phase II shall include shallow soil sampling and analysis for organochlorine pesticides and pesticide-based metals, arsenic and lead to determine whether these chemicals are present above Regional Water Quality Control Board (RWQCB) environmental screening levels for construction worker safety and future occupants of the site. The results of the soil sampling and testing shall be provided to the Director of PBCE, or the Director's designee, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

If the Phase II results indicate soil concentrations above RWQCB environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control (DTSC), or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of PBCE or the Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department before issuance of the demolition or grading permit, whichever occurs first.

Impact HAZ-2

Construction of the proposed projects could result in disturbance of naturally occurring asbestos, a hazardous material, due to the presence of serpentine bedrock on-site.

Mitigation Measures

MM HAZ-2 Prior to issuance of any demolition or grading permit, whichever occurs first, an Asbestos Dust Mitigation Plan (ADMP) shall be prepared and submitted to the BAAQMD for approval. The ADMP would include trackout prevention and control, storage piles, on-site traffic control, preparation of areas prior to earth moving activities, and control for off-site transport, consistent with the California Air Resources Board (ARB) Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations. The BAAQMD-approved ADMP shall be submitted to the Director of PBCE or the Director's designee and the Environmental Compliance Officer in the City of San José Environmental Services Department before issuance of the demolition or grading permit, whichever occurs first.

4.9.3 - Conclusion

With adherence to MM HAZ-1 and MM HAZ-2, impacts to hazards and hazardous materials would be less than significant.

4.10 - HYDROLOGY AND WATER QUALITY

The following discussion is based on the Hydromodification Report prepared by Kimley-Horn Associates[45] in August 2021, which is in addition to the Phase I Environmental Site Assessment (Phase I ESA) Report prepared for the project site by ICES on February 5, 2021. These reports are located in Appendix F and G, respectively.

4.10.1 - Environmental Setting

The project is a development of 7.6-acres within a 14.26-acre property along Piercy Road. Per City of San José Ordinance Number 29751, approximately 8 acres of the 14.26-acre site can be developed, while the remaining would remain open space in a Planned Development zone. Most of the existing site is vegetated, consisting of grass, weeds, and small native shrubs with slopes ranging from 2 percent–30 percent in the developable area, and 30 percent–50 percent within the Planned Development zone. The property includes southwest facing slopes on the northeast portion of the site, and a relatively level graded pad on the southwestern portion. A paved asphalt concrete road extends along the north and eastern edges of the property and an existing storm drain canal ("Evergreen Canal") captures and conveys stormwater from the eastern part of the site. The proposed development would consist of an approximately 121,580-square-foot industrial building, parking lot, landscaping, and associated stormwater treatment facilities.

Applicable Plans, Policies, and Regulations

Clean Water Act and Porter-Cologne Water Quality Control Act

The federal CWA and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. The CWA forms the basis for several State and local laws throughout the nation. Its objective is to reduce or eliminate water pollution in the nation's rivers, streams, lakes, and coastal waters. The CWA outlines the federal laws for regulating discharges of pollutants as well as sets minimum water quality standards for all "waters of the United States." The Porter-Cologne Act established the State Water Board.

Several mechanisms are employed to control domestic, industrial, and agricultural pollution under the CWA. At the federal level, the CWA is administered by the EPA. At the State and regional level, the CWA is administered and enforced by the State Water Board and the nine RWQCBs. The State of California has developed a number of water quality laws, rules, and regulations, in part to assist in the implementation of the CWA and related federally mandated water quality requirements. In many cases, the federal requirements set minimum standards and policies and the laws, rules, and regulations adopted by the State and regional boards exceed the federal requirements.

Post-Construction Urban Runoff Management and Post-Construction Hydromodification Management Policies

Council Policy 6-29 "Post-Construction Urban Runoff Management" requires all new development projects to incorporate site design and source control measures as a means to manage runoff. The policy requires projects creating 10,000 square feet or more of impervious surfaces to employ Low Impact Development (LID) measures.

[45] Kimley-Horn and Associates. 2021. City of San José Hydromodification Report, Project Name: Piercy Light Industrial. August.

Council Policy 8-14 "Post-Construction Hydromodification Management" addresses the management of stormwater runoff to minimize erosion and sedimentation in local waterways through the use of post-construction hydromodification management.

Municipal Regional Stormwater NPDES Permit

The EPA has delegated oversight of National Pollutant Discharge Elimination System (NPDES) requirements for municipal urban runoff discharges in California to the State Water Board and the nine RWQCB offices. In 2009, the San Francisco Bay RWQCB issued a regional NPDES permit (NPDES Permit Order R2-2009-0074, NPDES Permit No. CAS612008) for stormwater, consolidating requirements for all Bay Area municipalities and flood control agencies that discharge directly to San Francisco Bay. Some provisions require regional action and collaboration, but others relate to specific municipal activities over which the municipalities have individual responsibility and control.

Under the Municipal Regional Stormwater NPDES Permit, development projects that create, add, or replace 10,000 square feet or more of impervious surface area are required to control post-development stormwater runoff through source control, site design, and treatment control BMPs. Additional requirements must be met by certain large projects that create one acre or more of impervious surfaces (see Hydromodification discussion below). Beginning December 1, 2011, the impervious surface threshold for Regulated Projects will be decreased from 10,000 square feet to 5,000 square feet for special land use categories (e.g., auto services facilities, gas stations, restaurants, parking lots) and most Regulated Projects will have to treat stormwater runoff with additional treatment measures, such as harvesting and reuse, infiltration, evapotranspiration, or biotreatment.

Municipal Regional Permit Provision C.12.f

Provision C.12.f of the Municipal Regional Stormwater NPDES Permit (MRP) requires co-permittee agencies to implement a control program for polychlorinated biphenyl (PCB) that reduces PCB loads by a specified amount during the term of the permit, thereby making substantial progress toward achieving the urban runoff PCBs waste load allocation in the Basin Plan by March 2030.[46] Programs must include focused implementation of PCB control measures, such as source control, treatment control, and pollution prevention strategies. As of July 2019, a new screening process was approved in the Bay Area region to protect the Bay Area from PCBs. All applicants for a demolition permit or any other permit that involves the demolition of a building must submit a screening assessment form with their building permit application to the City. This screening process is a requirement of the San Francisco Bay Region Municipal Regional Stormwater Permit to improve water quality.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to hydrology and water quality and are applicable to the proposed project.

[46] San Francisco Bay Regional Water Quality Control Board (San Francisco Bay RWQCB). Municipal Regional Stormwater Permit, Provision C.12. November 19, 2015.

Envision San José 2040 General Plan Relevant Hydrology and Water Quality Policies

Policies	Description
Policy IN-3.7	Design new projects to minimize potential damage due to stormwater and flooding to the site and other properties.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's NPDES permit.
Policy MS-3.4	Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.
Policy ER-8.1	Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.
Policy ER-8.3	Ensure that private development in San José includes adequate measures to treat stormwater runoff.
Policy EC-4.1	Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and Municipal Code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls.
Policy EC-5.7	Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

4.10.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	☐	☐	☒	☐
2. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	☒	☐
3. 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:				
(a) result in substantial erosion or siltation on- or off-site;	☐	☐	☒	☐
(b) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	☐	☐	☒	☐

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(c) 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	☐	☐	☒	☐
(d) impede or redirect flood flows?	☐	☐	☒	☐
4. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	☐	☐	☐	☒
5. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	☒	☐

Impact Discussion

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

Less than significant impact. The proposed project would involve excavation and grading activities on-site. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site. Grading activities may increase erosion and sedimentation that could be carried by runoff into local waterways. The proposed project would be required to adhere to Standard Permit Condition listed below, which includes measures to reduce potential construction-related water quality impacts and are based on RWQCB recommendations. The proposed project, for example, would suspend earthmoving or dust-producing activities during periods of high winds, water all exposed or disturbed soil surfaces, and vegetate disturbed areas as quickly as possible. The proposed project would also be required to obtain a permit prior to any grading activities, per the City's Grading Ordinance. The grading permit would require, among other things, drainage and erosion control measures and reporting. Therefore, construction-related activities would have a less than significant impact on water quality.

The proposed project would introduce an increase in impervious areas on the property, leading to increased runoff rates and durations from storm events. In order to mitigate this increase in stormwater runoff, the Bay Area Hydrology Model (BAHM) was utilized to design flow control structures to maintain the magnitude and duration of post-project flows to the same level as pre-project flows. Based on proposed land use and acreage, three bioretention areas were designed with oversized outflow structures for the hydromodification requirements previously stated. Additionally, a 30-inch reinforced concrete storage pipe (RCP) with an orifice-controlled outlet structure at the downstream end of the storm drain system was designed with BAHM to further mitigate the post stormwater runoff flow and duration. Therefore, operational impacts to water quality would be less than significant.

City Standard Permit Condition

Construction-Related Water Quality

The project applicant shall implement the following conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- 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.
- If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

2) 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?

Less than significant impact. The Santa Clara Valley aquifer is a groundwater aquifer located in the southern San Francisco Bay Area. The Santa Clara Groundwater Subbasin, with an estimated usable capacity of 375,000 acre-feet, encompasses the City of San José, including the project site. The Valley Water District manages the Santa Clara Subbasin. Pursuant to the Sustainable Groundwater Management Act, Valley Water is in the process of updating their 2016 Groundwater Management

Plan.[47] As of 2016 the Santa Clara Subbasin is not designated as being in a condition of chronic overdraft, and long-term yields were determined to meet statutory requirements.

As shown on Figure 2-3 of the Valley Water Groundwater Management Plan, the project site is located within the Santa Clara Plain Recharge Area (Figure 12).

The Geotechnical Investigation report prepared for the project site provides geologic and hydrogeological information. The investigation determined that the depth to groundwater is greater than 50 feet at the project site. Furthermore, according to a site visit conducted as part of the Phase I ESA, no groundwater wells were observed on-site. As such, the proposed project is not anticipated to encounter or interfere with groundwater supplies during construction activities.

The San José Municipal Water System supplies water service to the project site. The Santa Clara Valley Groundwater Basin supplies about half of the County's water. Groundwater is used in the San José Municipal Water System's Edenvale and Coyote Valley service areas.

While the proposed project would increase water demands (33.25 acre-feet per year (AFY), see Section 4.19, Utilities and Service Systems, for more detail) relative to existing conditions, water demand resulting from the proposed project would remain consistent with what is anticipated in the General Plan and the Urban Water Management Plan (UWMP). The existing entitlements for water supplies to the City are sufficient to continue to meet the needs of the City during normal, dry and multiple dry years, in addition to the water demands generated by the proposed project. Therefore, the proposed project would not substantially deplete groundwater resources and the impact would be less than significant.

3) Would the project substantially alter the existing drainage pattern of the 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:

(a) result in substantial erosion or siltation on- or off-site;

Less than significant impact. There is an abandoned concrete canal located on the hillside that rises along the eastern half of the project site may potentially be under the jurisdiction of the San Francisco Bay RWQCB as a water of the State. Coyote Creek is located approximately 0.5-mile west of the project site as well. However, the proposed project footprint would not impact either drainage feature as the waterbodies lie upslope from the project footprint. However, the proposed project would introduce increased impervious areas on the project site, leading to increased runoff rates and durations from storm events. In order to mitigate this increase in stormwater runoff, BAHM was utilized to design flow control structures in order to maintain the magnitude and duration of post-project flows to the same level as pre-project flows. Based on proposed land use and acreage, three bioretention areas were designed with oversized outflow structures for the hydromodification requirements previously stated. Additionally, a 30-inch RCP storage pipe with an orifice-controlled outlet structure at the downstream end of the storm drain system was designed with BAHM to further mitigate the post stormwater runoff flow and duration. In addition, the proposed project

[47] Santa Clara Valley Water District (Valley Water). 2016. Groundwater Management Plan. Chapter 4-Water Supplies, Demands and Budget. November.

would comply with Standard Permit Condition described in Checklist Question 1, which identifies erosion control measures as listed in the City's Grading Ordinance. For these reasons, the proposed project would not result in substantial erosion or siltation. Impacts would be less than significant.

(b) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;

Less than significant impact. As discussed under Checklist Question 3(a) above, the proposed project would not substantially alter the existing site drainage pattern or the existing drainage of the surrounding area. The proposed project incorporates special design features to retain stormwater on-site and release it at a rate no greater than the pre-development condition of the project site. The proposed project would not contribute to downstream flooding. Therefore, impacts would be less than significant.

(c) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

Less than significant impact. As discussed under Checklist Question 3(a) above, the proposed project would not substantially alter the existing drainage pattern or the existing drainage in the surrounding area. Although the proposed project would increase impervious surface areas, bioretention areas, trees, and other landscaping are included in the project design to allow for infiltration and treatment before being discharged to the storm drain system. The proposed project would utilize existing storm drain lines. As such, the proposed project would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or create substantial increases in additional sources of polluted runoff. Therefore, impacts would be less than significant.

(d) impede or redirect flood flows?

Less than significant impact. Based on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs), the project site is located in Flood Zone D.[48] Flood Zone D classifies areas with a potentially moderate to high risk of flooding, but the probability is uncertain. Although the project site is located outside 100-year floodplain, the proposed project would include two bioretention areas – one on the western portion of the project site and one along Piercy Road. Additionally, landscaping would be planned to maximize runoff dispersal throughout the bioretention areas. Thus, the proposed project would not impede or redirect flood flows and impacts would be less than significant.

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

[48] Federal Emergency Management Agency (FEMA). 2021. FEMA's National Flood Hazard Layer (NFHL) Viewer. December. Website: https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd. Accessed September 10, 2021.

No impact. As discussed above, the project site is not subject to the 100-year flood, tsunamis, or seiches. For these reasons, the proposed project would not risk the release of substantial pollutants due to inundation. No impact would occur.

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

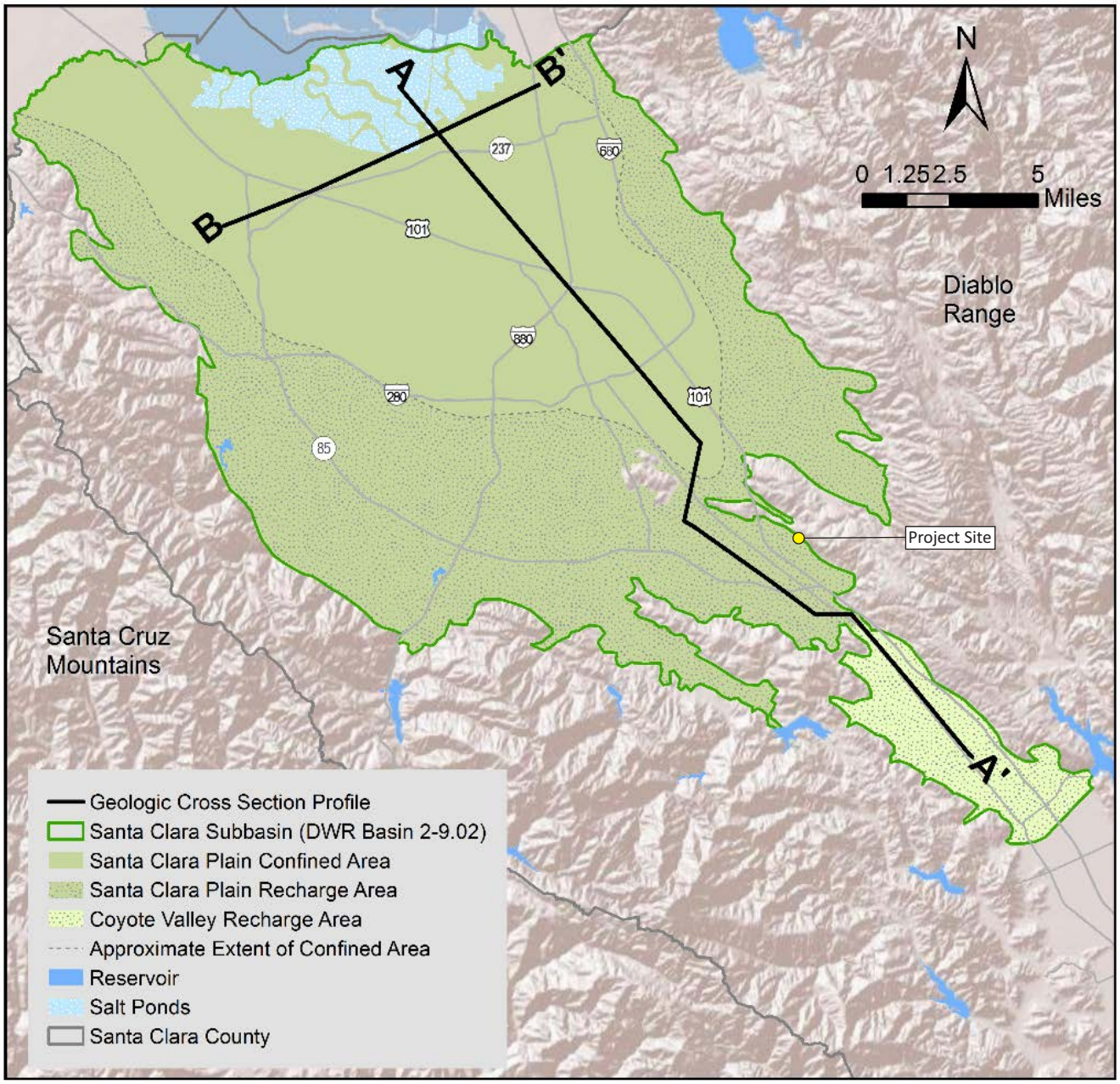
Less than significant impact. As discussed under Checklist Questions (1) and (3) above, the proposed project would not impact water quality during construction and operation. As discussed under Checklist Question 2 above, the proposed project would be served by the San José Municipal Water System and would not substantially deplete groundwater resources or conflict with the Valley Water Groundwater Management Plan. Therefore, impacts would be less than significant.

Mitigation Measures

None have been identified.

4.10.3 - Conclusion

With adherence to the Standard Permit Condition discussed above, impacts to hydrology and water quality would be less than significant.



Source: Santa Clara Valley Water District, 2016 Groundwater Management Plan.

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Figure 12
Santa Clara Plain Recharge Area

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4.11 - LAND USE

4.11.1 - Environmental Setting

Northwest

Land uses northwest of the project site consist of undeveloped land and Silver Creek Valley Road. The area beyond Silver Creek Road consists of multiple commercial buildings.

Northeast

The land area to the northeast of the project site is designated in the General Plan as Open Hillside and is currently undeveloped. A residential neighborhood is also located approximately 4,500 feet from the project site.

Southeast

Land use designations southeast of the project site include industrial park, commercial and undeveloped areas. The land use immediately adjacent to the southwest border of the project site is commercial (Commonwealth Central Credit Union). Land uses south of Piercy Road, which borders the southeast perimeter of the project site, consist of commercial buildings, which include the San José Batting Cages and a church.

Southwest

Land uses southwest of the project site consist of an Industrial Park designation, currently occupied by industrial uses and buildings, and a vacant lot. A residence is also located approximately 65 feet from the project site (459–469 Piercy Road) that was previously evaluated for its historic eligibility and was determined to be ineligible to meet the CRHR or NRHP significance criteria (please see Section 4.5, Cultural and Tribal Cultural Resources, for further discussion).

Hellyer Avenue is located approximately 400 feet from the project site and industrial and commercial buildings are located west of Hellyer Avenue. A residential neighborhood is approximately 3,750 feet east of the project site, south of Hellyer.

Applicable Plans, Policies, and Regulations

Envision San José 2040 General Plan

The General Plan designates the project site as Industrial Park. This designation is intended for a wide variety of industrial uses such as research and development, manufacturing, assembly, testing and offices.

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to land use and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Land Use Policies

Policies	Description
Policy CD-2.10	Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, Low Impact Development that efficiently uses land planned for growth, especially for residential development which tends to have a long lifespan. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.
Policy LU-2.1	Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
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.
Policy LU-9.3	Integrate housing development with our City's transportation system, including transit, roads, and bicycle and pedestrian facilities.

San José Zoning Ordinance

Title 20 of the San José Municipal Code contains the Zoning Ordinance, which sets forth zoning districts, associated uses, and development standards. The project site is in the Industrial Park Zoning District. Chapter 20.50.010 of the Zoning Ordinance states that the Industrial Park zoning designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices.

4.11.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Physically divide an established community?	☐	☐	☒	☐
2. 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?	☐	☐	☒	☐

Impact Discussion

1) Would the project physically divide an established community?

Less than significant impact. The project site is located in an area designated as Industrial Park. The project site does not contain any existing residences. The nearest residential use is one single-family home, located approximately 65 feet from the proposed project. Additional residential land uses are located approximately 125 feet and 550 feet southwest of the project site. The proposed project

involves construction of a single-story industrial building, with associated parking. The proposed project would not construct dividing infrastructure such as highways, freeways, or major arterial roads with the potential to disrupt connections for nearby residential uses to other land uses in the site vicinity. For these reasons, the proposed project would not divide an established community and impacts would be less than significant.

2) 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?

Less than significant impact. Development of the proposed project would be subject to design review by the City to ensure that the project meets the Industrial Design Guidelines and all applicable zoning code standards in accordance with the IP Zoning District. By meeting the requirements of the existing zoning, including setbacks, building heights, and landscape buffers, land use conflicts with surrounding uses would be minimized. Consistency with applicable General Plan policies adopted to reduce environmental effects are discussed in the relevant resource sections throughout this Initial Study.

The proposed project would develop approximately 121,580 square feet of light industrial uses and would not exceed the development capacity allocated for industrial uses in the San José Citywide Design Standards and Guidelines (SJCDSG). As described in previous sections of this Initial Study, the proposed project would not conflict with any land use plans adopted to avoid or mitigate environmental effects, including the 2017 Clean Air Plan (see Section 4.3, Air Quality), the SCVHP (see Section 4.4, Biological Resources), and the City's GHGRS (see Section 4.8, Greenhouse Gas Emissions). The project site is located outside of the Airport Influence Area of the Norman Y. Mineta San José International Airport and would not require an additional level of review by the County of Santa Clara ALUC for consistency with policies in the adopted Airport Comprehensive Land Use Plan (CLUP). The proposed project, therefore, would not result in a significant impact due to conflict with any land use plan, policy, or regulation adopted to avoid or mitigate an environmental effect, and impacts would be less than significant.

Mitigation Measures

None have been identified.

Standard Permit Conditions

None have been identified.

4.11.3 - Conclusion

Impacts would be less than significant.

4.12 - MINERAL RESOURCES

4.12.1 - Environmental Setting

As referenced in other topical review sections of this Initial Study, the eastern portion of the project site contains serpentine outcrops.

Applicable Plans, Policies, and Regulations

Surface Mining and Reclamation Act

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, SR-87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

4.12.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	☐	☐	☒	☐
2. 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?	☐	☐	☐	☒

Impact Discussion

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

Less than significant impact. According to the General Plan, the project site is not located within an area of San José containing known mineral resources that would be of value to the region or the residents of the State. As stated above, the California State Mining and Geology Board identified only one area within the City (Communications Hill in Central San José) as containing minerals of regional significance. The General Plan further states that neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of Statewide significance or of significance which requires further evaluation. [49] Several serpentine outcrops, covering 1.58 acres, are located on the eastern hill slope on the southern portion of the project site. However, as discussed, neither the State Geologist nor the State Mining

[49] City of San José. 2018. Envision San José General Plan 2040. Website: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/citywide-planning/envision-san-jos-2040-general-plan. Accessed February 10, 2022.

and Geology Board considers this serpentine zone to be located within an area of significant mineral resources. As such, impacts would be less than significant

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

No impact. The project site is not located within a mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan. The site is located approximately four miles south of the only City-designated mineral resource recovery site (Communications Hill). As a result, the proposed project would not result in the loss of availability of a locally important mineral recovery site. No impact would occur.

Mitigation Measures

None have been identified.

City Standard Permit Conditions

None have been identified.

4.12.3 - Conclusion

Impacts to mineral resources would be less than significant.

4.13 - NOISE AND VIBRATION

The proposed project includes the development of a single warehouse building and distribution center with ancillary office on a vacant lot. The following analysis is based on the Noise Impact Analysis Report, prepared by FCS, dated September 29, 2021, and revised January 5, 2022, that analyzes potential short-term (construction) and long-term (operational) noise impacts associated with implementation of the proposed project.

4.13.1 - Environmental Setting

Noise Fundamentals

Noise is generally defined as unwanted sound. Sound becomes unwanted when it interferes with normal activities, causes physiological harm, or interferes with communication, work, rest, recreation, and sleep. The vibration of sound pressure waves in the air produces sound. Sound pressure levels are used to measure the intensity of sound and are described in terms of decibels. The decibel (dB) is a logarithmic unit, which expresses the ratio of the sound pressure level being measured to a standard reference level. The 0 point on the dB scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Changes of 3 dB or less are only perceptible in laboratory environments. Audible increases in noise levels generally refer to a change of 3 dB or more, as this level has been found to be barely perceptible to the human ear in outdoor environments. Only audible changes in existing ambient or background noise levels are considered potentially significant.

An increase of 10 dB represents a 10-fold increase in acoustic energy, while 20 dB is 100 times more intense, and 30 dB is 1,000 times more intense. Each 10-dB increase in sound level is perceived as approximately a doubling of loudness. Sound intensity is normally measured through the A-weighted sound level. A-weighted decibels (dBA) approximate the subjective response of the human ear to a broad frequency noise source by discriminating against very low and very high frequencies of the audible spectrum. They are adjusted to reflect only those frequencies that are audible to the human ear.

Noise Descriptors

There are many ways to rate noise for various time periods, but an appropriate rating of ambient noise affecting humans also accounts for the annoying effects of sound, including during sensitive times of the day and night. The predominant rating scales in the State of California are equivalent continuous noise level (L_{eq}), Community Noise Equivalent Level (CNEL), and day/night average sound level (L_{dn}) that are based on dBA. The L_{eq} is the total sound energy of time varying noise over a sample period. The CNEL is the time varying noise over a 24-hour period, with a five dBA weighting factor applied to the hourly L_{eq} for noises occurring from 7:00 p.m. to 10:00 p.m. (defined as relaxation hours) and 10 dBA weighting factor applied to noise occurring from 10:00 p.m. to 7:00 a.m. (defined as sleeping hours). The L_{dn} is similar to the CNEL scale, but without the adjustment for events occurring during the evening relaxation hours. CNEL and L_{dn} measurements are typically within 1 dBA of each other and are normally exchangeable. These additions are made to the sound levels at these times because there is a decrease in the ambient noise levels during the evening and nighttime hours, which creates an increased sensitivity to sounds. For this reason, sound is perceived

to be louder in the evening and nighttime hours as compared with daytime hours, and is weighted accordingly. Many cities rely on the CNEL noise standard to assess transportation-related impacts on noise-sensitive land uses.

Characteristics of Groundborne Vibration

Groundborne vibration consists of rapidly fluctuating motion through a solid medium, specifically the ground, which has an average motion of zero and in which the motion's amplitude can be described in terms of displacement, velocity, or acceleration. Several different methods are used to quantify vibration amplitude such as the maximum instantaneous peak in the vibrations velocity, which is known as the peak particle velocity (PPV) or the root mean square (rms) amplitude of the vibration velocity. Construction activities, such as blasting, pile driving and operating heavy earthmoving equipment, are common sources of groundborne vibration. Construction vibration impacts on building structures are generally assessed in terms of PPV.

As vibration waves propagate from a source, the vibration energy decreases in a logarithmic nature and the vibration levels typically decrease by 6 VdB per doubling of the distance from the vibration source. As stated above, this drop-off rate can vary greatly depending on the soil type, but it has been shown to be effective enough for screening purposes, in order to identify potential vibration impacts that may need to be studied through actual field tests. The vibration level (calculated below as PPV) at a distance from a point source can generally be calculated using the vibration reference equation:

$$PPV = PPV_{ref} * (25/D)^n \text{ (in/sec)}$$

Where:

PPV_{ref} = reference measurement at 25 feet from vibration source
D = distance from equipment to property line
n = vibration attenuation rate through ground

According to Section 7 of the Federal Transit Administration (FTA) Transit Noise and Vibration Impact Assessment Manual, an "n" value of 1.5 is recommended to calculate vibration propagation through typical soil conditions.[50]

Existing Conditions

The site is located within a larger Industrial Park designated area. The project site is bound to the southeast by Piercy Road, vacant land, and commercial uses; to the southwest is a residence; to the northwest is Silver Creek Valley Road, and to the northeast is vacant land. While additional residential uses exist across Hellyer Avenue, this analysis is limited to the land uses adjacent to the project site, evaluating reasonable worst-case construction and operational noise impacts to the closest receptors. A more detailed description of the project site is provided in Section 3.1 of this document.

The dominant existing noise sources in the project vicinity include traffic on local roadways, primarily from traffic on Piercy Road, Hellyer Avenue, and Silver Creek Valley Road. The commercial and office

[50] Federal Transit Administration (FTA). 2018. Transit Noise and Vibration Impact Assessment Manual. September.

land use located to the northwest, west, and south of the project site, all generate noise from parking lot activity and mechanical ventilation equipment operations.

Existing traffic noise levels along selected roadway segments in the project vicinity were modeled using the Federal Highway Administration (FHWA) Traffic Noise Prediction Model (FHWA-RD-77-108). The daily traffic volumes were obtained from the traffic analysis prepared for the proposed project by Hexagon. The traffic volumes described here correspond to the existing without project conditions traffic scenario as described in the Transportation Analysis. The model inputs and outputs—including the 60 dBA, 65 dBA, and 70 dBA Day-Night Level (DNL) noise contour distances—are provided in Appendix H of this document. A summary of the modeling results is shown in Table 18. As is shown in Table 18, traffic noise levels range up to 66.4 dBA DNL at 50-feet from the outermost travel lane on roadway segments adjacent to the project site.

Table 18: Existing Traffic Noise Levels

Roadway Segment	Approximate ADT	Centerline to 70 DNL (feet)	Centerline to 65 DNL (feet)	Centerline to 60 DNL (feet)	DNL (dBA) 50 feet from Centerline of Outermost Lane
Silver Creek Valley Road–east of Hellyer Avenue	14,000	< 50	90	188	66.4
Hellyer Avenue–Silver Creek Valley Road to Piercy Road	7,100	< 50	< 50	82	60.8
Piercy Road–east of Hellyer Avenue	1,500	< 50	< 50	< 50	55.5

Notes:
ADT = Average Daily Traffic; this is based on the PM peak-hour turning volumes from the traffic study, multiplied by a factor of 10.
dBA = A-weighted decibel
DNL = day/night average sound level
[1] Modeling results do not take into account mitigating features such as topography, vegetative screening, fencing, building design, or structure screening. Rather, they assume a worst-case scenario of having a direct line of site on flat terrain.
Source: FirstCarbon Solutions (FCS) 2021.

Applicable Plans, Policies, and Regulations

State Noise Insulation Standard

The State of California has established regulations that help prevent adverse impacts to occupants of buildings located near noise sources. Referred to as the "State Noise Insulation Standard," it requires buildings to meet performance standards through design and/or building materials that would offset any noise source near the receptor. State regulations include requirements for the construction of new hotels, motels, apartment houses, and dwellings other than detached single-family dwellings that are intended to limit the extent of noise transmitted into habitable spaces. The State also includes noise requirements in the California Code of Regulations Title 24 (known as the Building Standards Administrative Code), Part 11 (known as CALGreen). The noise insulation standards require that the wall and roof-ceiling assemblies of new nonresidential developments that are exposed to exterior noise in excess of 65 dBA CNEL shall meet a composite Sound Transmission Class

(STC) rating of at least 50, with exterior windows of a minimum STC rating of 40. In addition, the standards require preparation of an acoustical analysis demonstrating the manner in which dwelling units have been designed to meet this standard (i.e., to achieve a maximum interior sound level of 45 dBA L_{dn}/CNEL in any habitable room), where such development is proposed in an area with exterior noise levels greater than 65 dBA CNEL.

Government Code Section 65302 mandates that the legislative body of each county and city in California adopt a noise element as part of its comprehensive general plan. The local noise element must recognize the land use compatibility guidelines published by the State Department of Health Services. The guidelines rank noise and land use compatibility in terms of normally acceptable, conditionally acceptable, normally unacceptable, and clearly unacceptable.

Envision San José 2040 General Plan

The following are the noise goals and policies established by the General Plan that are applicable to the proposed project:

Envision San José 2040 General Plan Relevant Noise and Vibration Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José: **Interior Noise Levels:** • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Standards Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency. **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 in the General Plan). • 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 the balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise for sources other than aircraft and elevated roadway segments.

Envision San José 2040 General Plan Relevant Noise and Vibration Policies

Policies	Description
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise-sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable" or • Cause the DNL at noise-sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.
Policy EC-1.3	Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise-sensitive residential and public/quasi-public land uses.
Policy EC-1.6	Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.
Policy EC-1.7	Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would: • Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months. For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise, and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.
Policy EC-2.3	Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a 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 vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction. Equipment or activities typical of generating continuous vibration include but are not limited to excavation equipment; static compaction equipment; vibratory pile drivers; pile-extraction equipment; and vibratory compaction equipment. Avoid use of impact pile drivers within 125 feet of any buildings, and within 300 feet of historical buildings, or buildings in poor condition. On a project-specific basis, this distance of 300 feet may be reduced where warranted by a technial [*sic*] study by a qualified professional that verifies that there will be virtually no risk of comsetic [*sic*] damage to sensitive buildings from the new development during demolition and construction. Transient vibration impacts may exceed a vibration limit of 0.08 in/sec PPV only when and where warranted by a technical study by a qualified professional that verifies that there will be virtually no risk of comsetic [*sic*] damage to sensitive buildings from the new development during demolition and construction.

The project site is located within the City of San José and this analysis was performed using the City's noise regulations. The City of San José addresses noise in the Noise Element of the General Plan and in the City of San José Municipal Code.

The land use compatibility guidelines for Community Noise in San José are laid out in the General Plan. For example, new residential land uses are considered "normally acceptable" with exterior noise exposures of up to 60 dBA DNL and "conditionally compatible" where the exterior noise exposure is between 60 and 75 dBA DNL, such that the specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to occur only between 7:00 a.m. to 7:00 p.m. Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

The Zoning Ordinance limits noise levels to 55 dBA maximum sound level (L_{max}) at any residential property line and 60 dBA L_{max} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The City further prohibits activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

4.13.2 - Environmental Checklist and Impact Discussion

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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?	☐	☐	☒	☐
2. Generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
3. 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?	☐	☐	☐	☒

Impact Discussion

The following analysis is based on the Noise Impact Analysis Report, prepared by FCS, dated September 29, 2021, and revised February 18, 2022, that analyzes potential short-term

(construction) and long-term (operational) noise impacts associated with implementation of the project.

1) 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?

Less than significant impact. A significant impact would occur if the proposed project would generate a substantial temporary or permanent increase in ambient noise levels in the project vicinity in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Short-Term Construction Impacts

For purposes of this analysis, a significant impact would occur if construction activities would result in a substantial temporary increase in ambient noise levels in excess of standards established in the local general plan or noise ordinance. According to Policy EC-1.7 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. However, construction of the proposed project is expected to last approximately 10 months. The Municipal Code noise ordinances limit the permissible hours for construction activity to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday. No construction is permitted on Saturdays, Sundays, or federal holidays.

Construction-related Traffic Noise

Noise impacts from construction activities associated with the proposed project would be a function of the noise generated by construction equipment, equipment location, sensitivity of nearby land uses, and the timing and duration of the construction activities. One type of short-term noise impacts that could occur during project construction would result from the increase in traffic flow on local streets, associated with the transport of workers, equipment, and materials to and from the project site.

The transport of workers and construction equipment and materials to the project site would incrementally increase noise levels on access roads leading to the site. Because workers and construction equipment would use existing routes, noise from passing trucks would be similar to existing vehicle-generated noise on these local roadways. Typically, a doubling of the Average Daily Traffic (ADT) hourly volumes on a roadway segment is required in order to result in an increase of 3 dBA in traffic noise levels, which, as discussed in the characteristics of nose discussion above, is the lowest change that can be perceptible to the human ear in outdoor environments. As shown in Table 18 above, the lowest existing ADT on roads adjacent to the project site occurs on Piercy Road with 1,500 ADT. According to the air quality modeling results, the highest daily project trip generation during project construction is calculated to be 198 ADT. Therefore, project-related construction trips would not double the hourly traffic volumes along any roadway segment in the project vicinity. For this reason, short-term intermittent noise from construction trips would be minor when averaged over a longer time period and would not result in a perceptible increase in hourly- or daily average

traffic noise levels in the project vicinity. Therefore, short-term construction-related noise impacts associated with the transportation of workers and equipment to the project site would be less than significant.

Construction Equipment Operational Noise

The second type of short-term noise impact is related to noise generated during construction on the project site. Construction is completed in discrete steps, each of which has its own mix of equipment and, consequently, its own noise characteristics. These various sequential phases would change the character of the noise generated on the site and, therefore, the noise levels surrounding the site as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction-related noise ranges to be categorized by work phase. Typical operating cycles for these types of construction equipment may involve 1 or 2 minutes of full-power operation followed by 3 or 4 minutes at lower power settings. Impact equipment, such as impact pile drivers, are not expected to be used during construction of this project. This noise impact analysis focuses on analyzing the loudest phase of construction (see Section 4.3, Air Quality, Table 4 Preliminary Construction Schedule, for construction phases) and demonstrates that, with implementation of the City's Standard Permit Conditions, impacts would be reduced to less than significant.

The loudest phase of construction is typically the site preparation and grading phase, as that is when the loudest pieces of heavy construction equipment would operate. For example, the maximum noise level generated by each scraper is assumed to be 85 dBA L_{max} at 50 feet from this equipment. Each bulldozer would also generate 85 dBA L_{max} at 50 feet. The maximum noise level generated by graders is approximately 85 dBA L_{max} at 50 feet.

A conservative but reasonable assumption is that this equipment would operate simultaneously and continuously over at least a 1-hour period in the vicinity of the closest existing residential receptors, but would move linearly over the project site as they perform their earth moving operations, spending a relatively short amount of time adjacent to any one receptor. A characteristic of sound is that each doubling of sound sources with equal strength increases a sound level by 3 dBA. Assuming that each piece of construction equipment operates at some distance from the other equipment, a reasonable worst-case combined noise level during this phase of construction would be 90 dBA L_{max} at a distance of 50 feet from the acoustic center of a construction area. The acoustical center reference is used because construction equipment must operate at some distance from one another on a project site, and the combined noise level as measured at a point equidistant from the sources (acoustic center) would be the worst-case maximum noise level. These operations would be expected to result in a reasonable worst-case hourly average of 86 dBA L_{eq} at a distance of 50 feet from the acoustic center of a construction area. These worst-case construction noise levels would only occur during the site preparation phase of development.

The closest noise-sensitive receptors to the proposed project site is the single-family residence located along the southwestern border of the project site. This closest receptor would be located approximately 65 feet from the project site and 100 feet from the acoustic center of construction activity where multiple pieces of heavy construction equipment would potentially operate at the project site. At this distance, worst-case construction noise levels could range up to approximately 84 dBA L_{max}, intermittently, and could have an hourly average of up to 80 dBA L_{eq}, at the façade of the nearest single-family residential home.

As described in General Plan Policy EC-1.7, 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. However, construction of the proposed project is expected to last approximately 10 months. Therefore, additional mitigation to comply with General Plan Policy EC-1.7 would not be required. General Plan Policy EC-1.7 also states that construction operations within San José must use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City of San José Municipal Code limits construction activities to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, unless expressly allowed in and in compliance with a development permit. The City achieves compliance with this Municipal Code requirements through required compliance with the City's Standard Permit Condition for construction noise provided below. With adherence to the City's Standard Permit Condition, the proposed project would not result in substantial temporary increases at the off-site sensitive receptors above standards established in the Municipal Code and General Plan, and construction noise impacts on sensitive receptors in the project vicinity would be considered less than significant.

Mobile Source Operational Noise Impacts

A significant impact would occur if project-generated traffic would result in a substantial increase in ambient noise levels compared with those that would exist without the project. The City considers a significant noise impact to occur if a project would cause the DNL at noise-sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "normally acceptable"; or where it would cause the DNL at noise-sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "normally acceptable" level.

Traffic noise levels along selected roadway segments in the project vicinity were modeled using the FHWA Traffic Noise Prediction Model (FHWA-RD-77-108). Site-specific information is entered, such as roadway traffic volumes, roadway active width, source-to-receiver distances, travel speed, noise source and receiver heights, and the percentages of automobiles, medium trucks, and heavy trucks that the traffic is made up of throughout the day, among other variables. The daily traffic volumes were obtained from the traffic analysis prepared for the proposed project by Hexagon. The traffic volumes described here correspond to the background without- and with project conditions traffic scenarios as described in the Transportation Analysis (Appendix I). The traffic volumes described here correspond to the background without- and with project conditions traffic scenarios as described in the Transportation Analysis. The model inputs and outputs—including the 60 dBA, 65 dBA, and 70 dBA CNEL noise contour distances—are provided in Appendix H of this document. Table 19 shows the traffic noise model results and the resulting project increase in traffic noise levels.

Table 19: Traffic Noise Increase Summary

Roadway Segment	Background (Without Project) (dBA) DNL	Background Plus Project (dBA) DNL	Increase over Background with Project (dBA)
Silver Creek Valley Road–east of Hellyer Avenue	68.4	68.4	0.0
Hellyer Avenue–Silver Creek Valley Road to Piercy Road	62.0	62.1	0.1

Roadway Segment	Background (Without Project) (dBA) DNL	Background Plus Project (dBA) DNL	Increase over Background with Project (dBA)
Piercy Road–east of Hellyer Avenue	56.5	57.2	0.7

Notes:
dBA = A-weighted decibel
DNL = day/night average sound level
[1] Modeling results do not take into account mitigating features such as topography, vegetative screening, fencing, building design, or structure screening. Rather, they assume a worst-case scenario of having a direct line of site on flat terrain.
Source: FirstCarbon Solutions (FCS) 2021.

As shown in Table 19 above, the highest traffic noise level increase with implementation of the proposed project would be less than 1 dBA for every modeled roadway segment and traffic scenario. This is well below the 3 dBA increase that would be considered a substantial increase in traffic noise. Therefore, implementation of the proposed project would not result in a substantial increase in traffic noise levels compared with traffic noise levels existing without the project, and the impact would be less than significant.

Stationary Source Operational Noise Impacts

A significant impact would occur if operational noise levels generated by stationary noise sources at the proposed project site would result in a substantial permanent increase in ambient noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Policy EC-1.2 defines a substantial increase as one that would cause the DNL at noise-sensitive receptors to increase by 5 dBA or more where the noise levels would remain "Normally Acceptable"; or cause the DNL at noise-sensitive receptors to increase by 3 dBA or more where noise levels would equal or exceed the "Normally Acceptable" level. "Normally Acceptable" noise levels are defined in Policy EC-1.1. Normally acceptable noise levels for surrounding commercial and industrial uses and residential uses is 70 dBA DNL and 60 dBA DNL, respectively.

In addition, Policy EC-1.3 of the General Plan restricts new nonresidential land uses operational noise levels to 55 dBA DNL at the site property lines when located adjacent to existing or planned noise-sensitive residential and public/quasi-public land uses.

The primary new stationary noise sources associated with implementation of the proposed project would be the new mechanical ventilation systems, truck loading and unloading activity, and parking lot activity. Potential impacts associated with these noise sources are analyzed below.

Mechanical Equipment Operations

At the time of this analysis, details were not available pertaining to proposed rooftop mechanical ventilation systems for the project; therefore, a reference noise level for typical mechanical ventilation systems was used. Noise levels from typical current market available, commercial grade mechanical ventilation systems range from 40 dBA to 60 dBA L_{eq} at a distance of 25 feet.

Proposed mechanical ventilation systems could be located as close as approximately 90 feet from the nearest off-site residential property line, the single-family residence located along the southwest

border of the project site. At this distance and minimal shielding assumed by the building parapet, noise generated by rooftop mechanical ventilation equipment would attenuate to below 43 dBA L_{max} and 42 dBA L_{eq} at the nearest off-site residential receptor property line. As noted in the Project Description, operations would take place from 7:00 a.m. to 7:00 p.m., 7 days per week. Therefore, as a reasonable worst-case scenario, if these operations were to occur every hour over a 24-hour period, the resulting noise level would be 39 dBA DNL as measured at this nearest receptor.

Combined stationary source operational noise impacts, in comparison to the City's substantial increase and 55 dBA DNL thresholds, are discussed below.

Truck Loading Activities

Noise would be also generated by truck loading and unloading activities at the loading docks along the northern side of the proposed building. Typical noise levels from truck loading and unloading activity range from 70 dBA to 80 dBA L_{max} as measured at 50 feet. These maximum noise level range includes noise from associated truck loading/unloading activity, including trucks maneuvering, truck trailer loading, truck trailer unloading, backup alarms or beepers, and truck docking noise.

The closest noise-sensitive receptor to the proposed project site is the single-family residence located along the southwestern border of the project site. This residence is approximately 350 feet from the nearest loading dock. The loading docks would be located on the opposite side of the proposed building from this receptor. Therefore, due to distance attenuation and shielding provided by the intervening structure, reasonable worst-case noise levels from truck loading and unloading activities would attenuate to below 51 dBA L_{max} and 31 dBA L_{eq} at the property line of the residence. As noted in the Project Description, operations would take place from 7:00 a.m. to 7:00 p.m., 7 days per week. Therefore, as a reasonable worst-case scenario, if these operations were to occur every hour over a 24-hour period, the resulting noise level would be 29 dBA DNL as measured at this nearest receptor.

Combined stationary source operational noise impacts in comparison to the City's substantial increase and 55 dBA DNL thresholds are discussed below.

Parking Lot Activities

Typical parking lot activities include people conversing, doors shutting, and vehicles idling which generate noise levels ranging up to 60 dBA L_{max} at 50 feet. These activities are expected to occur sporadically throughout the day, as visitors and staff arrive and leave parking lot areas at the project site.

The closest noise-sensitive receptor to the proposed project site is the single-family residence located along the southwestern border of the project site. This receptor's property line would be located approximately 120 feet from the nearest acoustic center of the nearest proposed parking areas. Therefore, due to distance attenuation, noise levels from typical parking lot activity would attenuate to below 52 dBA L_{max} and 39 dBA L_{eq}. As noted in the Project Description, operations would take place from 7:00 a.m. to 7:00 p.m., 7 days per week. Therefore, as a reasonable worst-case scenario, if these operations were to occur every hour over a 24-hour period, the resulting noise level would be 36 dBA DNL as measured at this nearest receptor.

Combined stationary source operational noise impacts in comparison to the City's substantial increase and 55 dBA DNL thresholds are discussed below.

Combined Stationary Source Operational Noise Impact Conclusion

Table 20, below, provides a summary of the stationary source operational noise as well as what the combined stationary operational noise level would be from the simultaneous operation of all on-site stationary noise sources as measured at the nearest residential property line.

Table 20: Stationary Operational Noise Impact Summary

Source	24-hour Average Noise Levels dBA, DNL	City's Noise Performance Threshold dBA, DNL*	Resulting Increase in Ambient Noise Levels dBA	Exceed Threshold? (Yes/No)
Mechanical Ventilation Equipment	39	55	0	No
Truck Loading and Unloading Activities	29	55	0	No
Parking Lot Activities	36	55	0	No
Combined Noise Levels	41	55	0	No

Notes:
dBA = A-weighted decibel
DNL = day/night average sound level
Source: FirstCarbon Solutions (FCS) 2021.

Based on the modeled existing traffic noise levels shown in Table 18, the existing background ambient noise levels in the vicinity of the nearest off-site residential receptor are documented to be 55.5 dBA DNL. The City considers these noise levels to be "normally acceptable" for residential land uses. As shown in Table 20, the combined stationary source operational noise levels as measured at the nearest residential property line would be 41 dBA DNL. These noise levels are 14 dBA below the existing background ambient noise levels. Therefore, combined stationary sources would not result in any measurable increase in ambient noise levels.

Therefore, project combined stationary source operational noise levels would not exceed the City's substantial increase threshold defined in General Policy EC-1.2 as measured at the property line. In addition, these operational noise levels would also not exceed the City's threshold of 55 dBA DNL as measured at the nearest residential property defined in Policy EC-1.3.. Therefore, noise levels from combined stationary source operational noise levels would not generate a substantial temporary or permanent increase in ambient noise levels in the project vicinity in excess of standards established in the local general plan or noise ordinance, and the impact would be less than significant.

City Standard Permit Condition

Construction-Related Noise

Noise minimization measures include, but are not limited to, the following:

- Pile Driving is prohibited.

- Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building, and Code Enforcement (PBCE) that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

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

Less than significant impact. In extreme cases, excessive groundborne vibration has the potential to cause structural damage to buildings. Common sources of groundborne vibration include construction activities such as blasting, pile driving, and operating heavy earthmoving equipment. In general, if groundborne vibration levels do not exceed levels considered to be perceptible, then groundborne noise levels would not be perceptible in most interior environments. Therefore, this analysis focuses on determining exceedances of groundborne vibration levels.

Short-term Construction Vibration Impacts

A significant impact would occur if the proposed project would generate excessive groundborne vibration or groundborne noise levels. According to Policy EC-2.3 of the General Plan, a vibration limit of 0.08 in/sec PPV shall be used to minimize the potential for cosmetic damage to sensitive historical structures, and a vibration limit of 0.20 in/sec PPV shall be used to minimize damage at buildings of normal conventional construction.

Of the variety of equipment used during construction, the large vibratory rollers anticipated to be used in the site preparation phase of construction would produce the greatest groundborne vibration levels. Large vibratory rollers produce groundborne vibration levels ranging up to 0.201 inch per second (in/sec) PPV at 25 feet from the operating equipment.

The nearest off-site structure is a residential structure located along the southwestern border of the project site, approximately 75 feet from the nearest construction footprint where a large vibratory roller would potentially operate. At this distance, groundborne vibration levels could range up to 0.04 PPV from operation of a large vibratory roller. This is below the City's standard of 0.08 in/sec PPV for sensitive historic structures and well below the 0.2 in/sec PPV for structures of normal conventional construction.

Therefore, construction-related groundborne vibration would not continually disturb adjacent properties or impact the general public's health, comfort, and convenience, nor would these vibration levels exceed the City's construction vibration impact criteria as measured at the nearest receiving structures in the project vicinity. Project construction-related groundborne vibration impacts would be less than significant.

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

No Impact. A significant impact would occur if the proposed project would expose people residing or working in the project area to excessive noise levels for a project located within the vicinity of a private airstrip or an Airport Land Use Compatibility Plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.

The nearest airport to the project site is the Norman Y. Mineta San José Airport located 9.6 miles northwest of the project site. The project site is located well outside of the 65 dBA CNEL airport noise contours. While aircraft noise is occasionally audible on the project site from aircraft flyovers, aircraft noise associated with nearby airport activity would not expose people residing or working near the project site to excessive noise levels. Therefore, implementation of the proposed project would not expose persons residing or working in the project vicinity to noise levels from airport activity that would be in excess of normally acceptable standards for residential land use development, and there would be no project impact associated with airport noise

Mitigation Measures

None have been identified.

4.13.3 - Conclusion

With adherence to Standard Permit Conditions to reduce potential construction noise impacts, all project-related noise and vibration impacts would be less than significant.

4.14 - POPULATION AND HOUSING

The proposed project includes the development of a single warehouse building on a vacant lot; no residential units are proposed to be constructed, and no demolition of existing residential units are proposed.

4.14.1 - Environmental Setting

The proposed project would require the removal of existing shrubs and ground cover at the site to construct an approximately 121,580-square-foot warehouse, including office space. It is expected that the number of construction workers needed would only be for the construction period of 10 months.

Once operational, the proposed project would employ approximately 80 workers on-site for daily operation.

As described in the Project Description, the site is located within a larger Industrial Park designated area. The project site is bound to the southeast by Piercy Road, vacant land, and commercial uses; to the southwest by vacant land and a residence; to the northwest by vacant land and Silver Creek Valley Road, and to the northeast by vacant land. A Valley Water easement and canal is located on the northeast perimeter of the property, and a PG&E easement is located on the southwest perimeter. There are no other elements of the proposed project that would induce population growth.

Applicable Plans, Policies, and Regulations

California Housing Element Law

Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting housing plans as part of their "general plan" (also required by the State). General plans serve as the local government's "blueprint" for how the city and/or county will grow and develop and include seven elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction's general plan is known as "housing element law."

Association of Bay Area Governments

ABAG is the official comprehensive planning agency for the San Francisco Bay region, which is composed of the nine counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma, and contains 101 municipalities. ABAG is responsible for taking the overall Regional Housing Needs Allocation provided by the State and preparing a formula for allocating that housing need by income level across its jurisdiction. ABAG produces regional growth forecasts so that other regional agencies, including the MTC and the BAAQMD, can use the forecast to make project funding and regulatory decisions.

Plan Bay Area 2040

Plan Bay Area, Strategy for a Sustainable Region The MTC/ABAG Plan Bay Area is the Bay Area's Regional Transportation Plan/Sustainable Community Strategy. Plan Bay Area is therefore the long-

range transportation and land use/housing strategy through 2040 for the Bay Area, pursuant to SB 375, the Sustainable Communities and Climate Protection Act. It lays out a development scenario for the region, which, when integrated with the transportation network and other transportation measures and policies, would reduce GHG emissions from transportation (excluding goods movement) below the per capita reduction targets identified by the ARB. The 2040 Plan Bay Area is a limited and focused update to 2013 Plan Bay Area, with updated planning assumptions that incorporate key economic, demographic, and financial trends from the last several years.

4.14.2 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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)?	☐	☐	☐	☒
2. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

A project can induce substantial population growth by (1) proposing new housing beyond projected or planned development levels, (2) generating demand for housing as a result of new businesses, (3) extending roads or other infrastructure to previously undeveloped areas, or (4) removing obstacles to population growth (e.g., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

Impact Discussion

1) 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)?

No Impact. The proposed project involves the removal of existing ground cover and the construction of a warehouse and distribution center, including office space, and does not propose construction of residential units. Although the project includes new utility infrastructure to support the proposed use, this new infrastructure would only support the proposed use and would not be extended off-site. Therefore, the proposed project would not induce population growth directly or indirectly. No impact would occur.

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

No impact. The proposed project involves the construction of a single warehouse on a vacant lot, and no existing housing would be demolished. Therefore, project implementation would not necessitate the construction of replacement housing. No impact would occur.

Mitigation Measures

None have been identified.

Standard Permit Conditions

None have been identified.

4.14.3 - Conclusion

No impacts to population and housing would occur.

4.15 - PUBLIC SERVICES

The San José Fire Department provides fire protection to the project site. The San José Police Department provides police protection to the project site. The project site is located within the Oak Grove School District for elementary and intermediate schools, and within the East Site High School District for high school. The City of San José Department of Parks, Recreation and Neighborhood Services owns and maintains parks in the project vicinity and provides community and recreational services within the City.

4.15.1 - Environmental Setting

Applicable Plans, Policies, and Regulations

Envision San José 2040 General Plan

The following are the goals and policies established by the General Plan and are applicable to the proposed project:

Envision San José 2040 General Plan Applicable Public Services Policies

Policies	Description
Policy CD-5.5	Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, State, and federal regulations.
Policy ES-3.1	Provide rapid and timely Level of Service response time to all emergencies: 1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of 11 minutes or less for 60 percent of all Priority 2 calls. 2. For fire protection, use as a goal a total response time (reflex) of 8 minutes and a total travel time of 4 minutes for 80 percent of emergency incidents.
Policy ES-3.9	Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces.
Policy ES-3.10	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.
Policy ES-3.11	Ensure that adequate water supplies are available for fire suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.
Policy PR-1.3	Provide 500 square feet per 1,000 population of community center space.

4.15.2 - Environmental Checklist and Impact Discussion

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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:				
Fire Protection?	☐	☐	☒	☐
Police Protection?	☐	☐	☒	☐
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☒	☐
Other Public Facilities?	☐	☐	☒	☐

Impact Discussion

1. 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?

Less than significant impact. The City of San José Fire Department (SJFD) provides fire protection services for the project area to residents and visitors throughout the City. The SJFD also responds to hazardous materials spills. During Fiscal Year 2020-2021, SJFD's 33 fire stations responded to approximately 94,800 calls.[51] The General Plan identifies a service goal for total response time of 8 minutes and total travel time of 4 minutes or less for 80 percent of emergency incidents. The closest fire station to the project is Station 35, located at 135 Poughkeepsie Road, approximately 1.8 miles southwest of the project site.

The proposed project would not increase the residential population of San José. Furthermore, the proposed project is consistent with the project site's General Plan land use designation and would not substantially increase demand for fire protection services beyond what was assumed in the General Plan EIR. The proposed project would not require the construction of new or the alteration of existing fire protection facilities to maintain an adequate level of fire protection services. The Fire Department would review the proposed project plans for adequate emergency access as part of the entitlement process.

[51] City of San José. 2021. Annual Report on City Services FY 2020-21. Website: https://www.sanjoseca.gov/home/showpublisheddocument/80634/637753535120900000. Accessed December 29, 2021.

The proposed project would be required to comply with all applicable codes, ordinances and regulations regarding fire prevention and suppression measures, fire hydrants and sprinkler systems, emergency access and other related fire safety requirements. The internal drive aisles would serve as fire access lanes and would be designed to meet SJFD access width and turnaround requirements. Therefore, the proposed project's potential impacts on fire protection services would be less than significant and no mitigation is required.

b) Police protection?

Less than significant impact. Police protection services for the project site are provided by the San José Police Department (SJPD). The SJPD employs 1,125 sworn officers and 520 civilians. During Fiscal Year 201-2020, SJPD employed 110 sworn officers per 100,000 residents.[52] Offices and civilian employees are assigned to one of four Bureaus, 11 divisions, and more than 50 specialized units. Some of these specialized units include Airport Police, Bomb Squad, Crime Prevention, Internal Affairs, and Patrol.

Officers are dispatched from police headquarters, located at 201 West Mission Street. The police headquarters is located approximately 12.1 miles northwest of the project site. During Fiscal Year 2019-2020, SJPD responded to 603,799 emergency calls. The project site is located in SJPD District Y. The current average response time (Fiscal Year 2020-2021, first through third quarters) in district Y is 6.72 minutes.[53] The General Plan identifies a service goal of 6 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.

The proposed project would not increase the residential population of the City. Furthermore, the proposed project is consistent with the project site's General Plan land use designation and would not substantially increase demand for police protection services provided by the SJPD, beyond what was assumed in the General Plan EIR. The net increase in demand for police protection services is also not anticipated to generate the need for new sworn officers, nor would it require construction of new or physically altered police protection facilities to maintain adequate levels of service.

The proposed project would comply with all applicable codes, ordinances and requirements related to public safety protection. Impacts would be less than significant and no mitigation measures are required.

c) Schools?

No impact. The proposed project does not propose development of new housing; therefore, there would not be a direct increase in K-12 enrollment. As a result, the proposed project would not create a need for new or expanded school facilities. No impacts would occur.

[52] Benoit, A. Research and Development, San José Police Department. Personal communication: email. September 22, 2021.
[53] Ibid.

d) Parks?

Less than significant impact. The proposed project does not propose development of new housing and, therefore, would not directly increase demand for parks. As a result, the proposed project would not create a need for new or expanded park facilities. Impacts would be less than significant.

e) Other public facilities?

Less than significant impact. There are several public facilities within the City, such as multiple library branches, sports facilities, community centers. The proposed project does not include a residential land use component and, therefore, would not directly increase use of these facilities. As a result, the proposed project would not create a need for new or expanded public facilities. Impacts would be less than significant.

Mitigation Measures

None have been identified.

Standard Permit Conditions

None have been identified.

4.15.3 - Conclusion

Impacts to public services would be less than significant.

4.16 - RECREATION

4.16.1 - Environmental Setting

The City of San José operates and maintains a wide array of recreational facilities to provide a high-quality life in the City. The City's Parks, Recreation, and Neighborhood Services (PRNS) department manages a total of 206 parks, 50 community centers, approximately 70 miles of trails, and over 3,500 acres of parkland and open space. The PRNS also manages the Happy Hollow Park and Zoo.

Nearby recreational facilities include Southside Community Center approximately 1 mile southeast of the site and Edenvale Community Center is approximately 2 miles northwest of the site.

Coyote Creek Trail is located approximately 0.5 mile west of the project site.

Silver Leaf Park is approximately 0.7-mile southeast of the site, Ramac Park is approximately 1.2 miles south of the site, and Shady Oaks Park is approximately 0.6-mile west of the site.

4.16.2 - Environmental Checklist and Impact Discussion

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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?	☐	☐	☒	☐
2. 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?	☐	☐	☐	☒

Impact Discussion

1) 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?

Less than significant impact. The proposed project does not involve the construction of new residential units and therefore would not generate new residents that could increase the demand for and use of nearby parks existing neighborhood and regional parks or other recreational facilities. Because of the distances of these facilities from the project site, it is not expected that any occasional use of nearby parks or other recreational facilities by future employees would significantly increase the use or demand of these recreational facilities. Therefore, the proposed project would not result in the physical deterioration of recreational facilities, and impacts would be less than significant.

2) 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?

No impact. The proposed project does not include recreational facilities or involve the construction of new residential units and therefore would not generate new residents that could increase the demand for and use of nearby parks or recreational facilities. Therefore, construction or expansion of recreational facilities would not be required. No impact would occur.

Mitigation Measures

None have been identified.

Standard Permit Conditions

None have been identified.

4.16.3 - Conclusion

No impacts to recreation would occur.

4.17 - TRANSPORTATION

The following discussion is based on a Transportation Analysis (TA) prepared by Hexagon Transportation Consultants in January 2022. A copy of this report is included as Appendix I.

Applicable Plans, Policies, and Regulations

Regional Transportation Planning

The MTC is the transportation planning, coordinating, and financing agency for the nine county San Francisco Bay Area, including Santa Clara County. The MTC is charged with regularly updating the RTP, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. The MTC and ABAG adopted Plan Bay Area 2040 in July 2017, which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by the ARB) and RTP (including a regional transportation investment strategy for revenues from federal, State, regional and local sources over the next 24 years).

Santa Clara Valley Transportation Authority Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the CMP, a program aimed at reducing regional traffic congestion. The relevant State legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: (1) a system definition and traffic Level of Service (LOS) standard element; (2) a transit service and standards element; (3) a trip reduction and TDM element; (4) a land use impact analysis program element; and (5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements including: (1) a countywide transportation model and data base element; (2) an annual monitoring and conformance element; and (3) a deficiency plan element. The Santa Clara VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

City of San José's Transportation Analysis Policy (Council Policy 5-1)

In March 2018, Council Policy 5-1, "Transportation Analysis Policy" replaced Council Policy 5-3, "Transportation Impact Policy" as the Policy for transportation development review in the City of San José. Council Policy 5-1 aligns the City's Transportation Analysis with California SB 743 and the City's goals as set forth in the General Plan. Council Policy 5-1 establishes the thresholds for transportation impacts under CEQA by removing LOS and replacing it with VMT.

The intent of this change is to shift the focus of the Transportation Analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and the creation of robust multi-modal networks that support integrated land uses. The new transportation policy aligns with the currently adopted General Plan, which seeks to focus new development growth within Planned Growth Areas, bringing together office, residential, and supporting service land uses to internalize trips and reduce VMT.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to transportation and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Transportation Policies

Policy	Description
Policy TR-1.1	Accommodate and encourage the use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and 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 José 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.
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 José International Airport.
Policy 2.5	Integrate the financing, design and construction of pedestrian and bicycle facilities with street projects. Build pedestrian and bicycle improvements at the same time as improvements for vehicular circulation.
Policy TR-2.8	Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.
Policy TR-3.3	As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new

Envision San José 2040 General Plan Relevant Transportation Policies

Policy	Description
	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 Santa Clara 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-8.3	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 provided shared parking or a comprehensive 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 and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets
Policy 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.
Policy LU-10.5	Facilitate the development of housing close to jobs to provide residents with the opportunity to live and work in the same community.

4.17.1 - Environmental Checklist and Impact Discussion

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

Impact Discussion

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

Less than significant impact. The proposed project involves a new speculative light industrial building. The proposed structure would include 121,580 square feet of uses, which would be comprised of approximately 116,580 square feet of warehouse space and approximately 5,000 square feet of mezzanine office space.

For expanded detail on existing transportation conditions such as roadway network, transit service, pedestrian and bicycle facilities and the methodology used in the analysis, see Appendix I.

Project Trip Generation

Trip generation resulting from new development proposed within the City of San José typically is estimated using the trip rates published in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition (2017). Trips that would be generated by the proposed residential development were estimated using the ITE trip rates for "Warehousing" (ITE Land Use 150) and are shown in Table 21.

Table 21: Project Trip Generation Estimates

Land Use	Size	Daily		AM Peak-hour				PM Peak-hour			
				Peak-hour Rate	Trips			Peak-hour Rate	Trips		
		Rate	Trips		In	Out	Total		In	Out	Total
Proposed Land Use											
Warehousing[1]	121,600 square feet	1.74	212	0.17	16 (77%)	5 (23%)	21	0.19	6 (27%)	17 (73%)	23
Location-Based Mode Share Reduction (5%)[2]	—	—	*-11*	—	*-1*	—	*-1*	—	—	*-1*	*-1*
Net Project Trips	**—**	**—**	**201**	**—**	**15**	**5**	**20**	**—**	**6**	**16**	**22**

[1] Trip generation was based on average rates contained in the ITE Trip Generation Manual, 10th Edition, for Warehousing (Land Use 150). Rates are expressed in trips per 1,000 square feet.

[2] A 5 percent reduction was applied based on the location-based vehicle mode share percentage outputs (contained in Table 6 of the City's Transportation Analysis Handbook) produced from the San José Travel Demand Model for Place Type "Suburban with Single-Family Homes."

Source: Hexagon Transportation Consultants, Inc. 2022. 455 Piercy Road Warehouse: Transportation Analysis. January 21.

As shown in Table 21 above, the project qualifies for a location-based adjustment, in accordance with the City's Transportation Analysis Handbook. Industrial developments located within areas designated Suburban with Single-Family Homes have a vehicle mode share of 95 percent (according to Table 6 of the City's Transportation Analysis Handbook). Thus, a 5 percent reduction was applied to the project trip generation estimates based on the location-based vehicle mode share outputs produced from the San José Travel Demand Model.

After applying the ITE trip rates to the proposed project and applying the appropriate trip reduction, it is estimated that the proposed project would generate 201 new daily trips, with 20 new trips (15 inbound and five outbound) occurring during the AM peak-hour and 22 new trips (6 inbound and 16 outbound) occurring during the PM peak-hour (see Table 21).

Trip Distribution and Assignment

The trip distribution pattern for the proposed project was estimated based on existing travel patterns on the surrounding roadway system, freeway access, and the locations of complementary land uses. The peak-hour vehicle trips associated with the proposed project were added to the roadway network in accordance with the trip distribution pattern. It is estimated that about one-third of the project trips originating from the west via Silver Creek Valley Road would utilize Hellyer Avenue to access the site and about two-thirds would utilize Piercy Road to access the site, since Piercy Road provides a slightly more direct route. The same assumption holds true for outbound project trips.

Traffic Volumes Under All Scenarios

Existing Traffic Volumes

Because of the current COVID-19 pandemic situation, some businesses and schools are closed, and people are working at home to the extent possible. As a result, existing traffic volume is lower than it was prior to the virus outbreak. It is not known when traffic levels will return to pre-virus conditions. Even though many businesses and schools have reopened, most are operating well below capacity. Thus, traffic volume is expected to remain reduced for an indefinite amount of time. For this reason, the City of San José is requiring that all new traffic counts for study intersections be put on hold until further notice. Instead of conducting new turning movement counts, City staff are requesting that an annual growth factor of 1 percent be applied to historical count data. Accordingly, a 1 percent annual growth factor was applied to the turning movement counts provided by City staff for this project. This approach allows transportation studies such as this to move forward without waiting for conditions to return to "normal." Existing AM and PM peak-hour traffic volumes for the three study intersections were provided by City of San José staff. The counts used were conducted in 2014, 2016 and 2018. An annual growth factor of 1 percent was applied to estimate existing traffic conditions.

Background Traffic Volumes

Background AM and PM peak-hour traffic volumes were estimated by adding the trips generated by nearby approved but not yet completed or occupied projects to existing traffic volumes. The vehicular trips associated with the approved projects in the area are listed in the City of San José's Approved Trips Inventory (ATI) contained in Appendix I.

Background Plus Project Traffic Volumes

Project trips were added to background traffic volumes to obtain Background Plus Project traffic volumes.

Intersection Traffic Operations

City staff have determined that the proposed project is not required to analyze any signalized intersections for potential adverse effects since the amount of industrial development proposed for the site (which is located in Edenvale Sub-Area 3) has already been approved as part of the Edenvale Area Development Policy (EADP). The proposed project is, however, required to report intersection levels of service under existing, background, and Background Plus Project conditions for informational purposes, which is provided in Table 22.

The detailed signalized intersection LOS calculations are contained in Appendix I.

Table 22: Intersection Level of Service Summary

Intersection	Peak-hour	Count Date	Existing		Background		Background Plus Project	
			Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS
1 Piercy Road and Silver Creek Valley Road	AM	09/09/2014	7.6	A	7.5	A	7.6	A
	PM	09/09/2014	22.1	C	22.9	C	23.0	C

Intersection	Peak-hour	Count Date	Existing		Background		Background Plus Project	
			Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS	Avg. Delay (sec)	LOS
2 Hellyer Avenue and Silver Creek Valley Road	AM	09/27/2018	25.8	C	28.6	C	28.6	C
	PM	09/27/2018	28.3	C	34.1	C	34.2	C
3 Hellyer Avenue and Piercy Road	AM	10/26/2016	18.5	B	23.0	C	23.2	C
	PM	10/26/2016	22.7	C	22.2	C	22.8	C

Notes:
LOS = Level of Service
An annual growth factor of 1 percent was applied to the historical count date to estimate "normal" (i.e., pre-COVID-19) traffic conditions.
Source: Hexagon Transportation Consultants, Inc. 2022. 455 Piercy Road Warehouse: Transportation Analysis. January 21.

The results of the intersection LOS evaluation (see Table 22 above) show that the signalized study intersections are currently operating at acceptable levels of service during the AM and PM peak-hours of traffic and would continue to operate acceptably under background and Background Plus Project conditions. Therefore, according to the City's Transportation Analysis Handbook, the proposed project would not result in an adverse effect on intersection operations and impacts would be less than significant.

Vehicle Queueing Analysis

A vehicle queueing analysis was prepared for selected left-turn movements at intersections where the proposed project would add a noteworthy number of peak-hour vehicle trips. For the purpose of this study, 5 AM or PM peak-hour vehicle trips per lane was assumed to be a noteworthy number of project-generated trips. This analysis provides a basis for estimating future left-turn pocket storage requirements at the intersections under Background Plus Project conditions. Vehicle queues were estimated using Poisson probability distribution, as described in Chapter 1 of the TA.

Vehicle queueing was analyzed for the southbound and westbound left-turn movements at the intersection of Hellyer Avenue and Piercy Road as shown in Table 23. It is further noted that vehicle queueing was also evaluated for the northbound left-turn movement at the intersection of Hellyer Avenue and Silver Creek Valley Road for informational purposes.

Table 23: Intersection Vehicle Queueing Analysis Results

Measurement	Hellyer Avenue and Silver Creek Valley Road		Hellyer Avenue and Piercy Road			
	Northbound Lane		Southbound Lane		Westbound Lane	
	AM	PM	AM	PM	AM	PM
Existing						
Cycle/Delay[1] (sec)	110	110	104	104	104	104

Measurement	Hellyer Avenue and Silver Creek Valley Road		Hellyer Avenue and Piercy Road			
	Northbound Lane		Southbound Lane		Westbound Lane	
	AM	PM	AM	PM	AM	PM
Volume (vphpl)	28	53	60	39	1	8
95th Percentile Queue (veh/in)	3	4	4	3	1	1
95th Percentile Queue (ft/in)[2]	75	100	100	75	25	25
Storage (ft/in)	450	450	200	200	200	200
Adequate (Y/N)	Y	Y	Y	Y	Y	Y
Background						
Cycle/Delay[1] (sec)	110	110	104	104	104	104
Volume (vphpl)	56	136	60	39	1	8
95th Percentile Queue (veh/in)	4	8	4	3	1	1
95th Percentile Queue (ft/in)[2]	100	200	100	75	25	25
Storage (ft/in)	450	450	200	200	200	200
Adequate (Y/N)	Y	Y	Y	Y	Y	Y
Background Plus Project						
Cycle/Delay[1] (sec)	110	110	104	104	104	104
Volume (vphpl)	56	138	65	41	3	13
95th Percentile Queue (veh/in)	4	8	4	3	1	2
95th Percentile Queue (ft/in)[2]	100	200	100	75	25	50
Storage (ft/in)	450	450	200	200	200	200
Adequate (Y/N)	Y	Y	Y	Y	Y	Y

Notes:
vphpl = vehicle per hour per lane
[1] Vehicle queue calculations based on cycle length.
[2] Assumes 25 feet per vehicle queued.

As shown in Table 23 above, the intersection would provide adequate left-turn pocket vehicle storage under Background Plus Project conditions. Therefore, the added project traffic is not expected to result in a noticeable increase in vehicle queueing at this intersection and impacts would be less than significant.

Edenvale Area Development Policy

The project is located in Edenvale Sub-Area 3, which has approval for industrial development as part of the EADP. Sub-Area 3 has a base maximum allowable floor area ratio (FAR) of 0.40 for industrial development. The proposed project FAR is below the FAR of 0.40. The project is in conformance with the EADP and will not be required to pay thee EADP traffic impact fee (TIF).

Bicycle and Pedestrian Facilities

Bicycle facilities in the project vicinity consist of striped bike lanes (Class II bicycle facilities) on Hellyer Avenue, Silver Creek Valley Road and Monterey Road, and Coyote Creek trail (Class I bicycle facility). The network of bike facilities exhibits good connectivity and would provide employees of the proposed project with safe bicycle routes in the immediate project vicinity. Currently, a continuous bicycle route between the project site and the residential and commercial areas west of US-101 does not exist on either Blossom Hill Road or on Silicon Valley Boulevard. However, the US-101/Blossom Hill Road interchanges is being reconstructed and will include bicycle facilities.

According to the City of San José's off-street parking requirements (Chapter 20.90 of the City's Zoning Code), nonresidential projects must provide a minimum of two short-term bicycle parking spaces and one long-term bicycle parking space.

The proposed project would provide eight short-term bicycle parking spaces and four long-term bicycle parking spaces, which would exceed the City's bicycle parking requirement. The short-term bicycle parking spaces (i.e., bike racks) would be situated adjacent to the main office entrance at the southeast corner of the building. Although not shown on the site plan, the long-term bicycle parking spaces would be provided inside the building. Providing adequate and convenient on-site bike parking would help to create a bicycle-friendly environment and encourage bicycling by employees of the project.

Pedestrian facilities consist of sidewalks and crosswalks in the project vicinity, as well as the Coyote Creek multiuse trail. Crosswalks with pedestrian signal heads and push buttons are located at all the signalized intersections in the study area. According to the site plan, the proposed project is not proposing to widen the existing 6-foot-wide sidewalk along the project frontage on Piercy Road. However, the sidewalk along the project frontage is consistent with the other sidewalks in the project vicinity. The network of sidewalks exhibits good connectivity and would provide employees of the project with safe routes to transit stops and other points of interest in the immediate project vicinity.

The proposed project would not remove any bicycle or pedestrian facilities, nor would it conflict with any adopted plans or policies for new bicycle or pedestrian facilities. Therefore, impacts would be less than significant.

Transit Services

The project site is not well served by bus or rail service. Bus service in the project vicinity is provided by VTA local route 42 only. Route 42 travels along Silver Creek Valley Road, Hellyer Avenue and Silicon Valley Boulevard in the project vicinity and provides service between Evergreen Valley College and Kaiser San José. Route 42 runs on 60-minute headways between 6:00 a.m. and 7:00 p.m. and provides service to the Blossom Hill Caltrain station. The Blossom Hill Caltrain station is located about one mile from the project site at the intersection of Monterey Road/Ford Road. Local Route 42 has stops within walking distance of the project site on Hellyer Avenue at Piercy Road (northbound and southbound bus stops).

Because of the lack of transit service options within walking distance of the site, it is reasonable to assume that few employees of the proposed project would utilize transit. A small increase in transit

demand generated by the proposed project could be accommodated by the current available ridership capacity of the transit service in the study area. Therefore, impacts would be less than significant.

Construction Activities

Typical activities related to the construction of any development could include lane narrowing and/or lane closures, sidewalk and pedestrian crosswalk closures, and bike lane closures. In the event of any type of closure, clear signage (e.g., closure and detour signs) must be provided to ensure vehicles, pedestrians, and bicyclists are able to adequately reach their intended destinations safely.

Per City standard practice, the proposed project would be required to submit a construction management plan for City approval that addresses demolition, remediation, construction schedule, street closures and/or detours, construction staging areas and parking, and planned truck routes.

Overall

The proposed project would not alter or disrupt the existing transit, bike, or pedestrian infrastructure, create a demand that cannot be accommodated by the existing facilities, or conflict with any plans or policies related to active transportation. Therefore, the proposed project would not negatively affect the circulation system, including transit, roadway, bicycle, and pedestrian infrastructure and impacts would be less than significant.

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

Less than significant impact with mitigation incorporated. Per San José Council Policy 5-1, the effects of the proposed project on VMT was evaluated using the methodology outlined in the City's Transportation Analysis Handbook. VMT is the total miles of travel by personal motorized vehicles a project is expected to generate in a day. VMT measures the full distance of personal motorized vehicle trips with one end within the project.

The project-level impact analysis under CEQA uses the VMT metric to evaluate a project's transportation impact by comparing against the VMT thresholds of significance as established in the Transportation Analysis Policy. The San José VMT Evaluation Tool is used to estimate the project VMT based on the project location (APN), type of development, Project Description, and proposed trip reduction measures. The threshold of significance for industrial employment uses (Table 24) was used for the VMT analysis.

Table 24: VMT Thresholds of Significance for Development Projects (March 2018)

Project Types	Significant Criteria	Current Level	Threshold
Residential Uses	Project VMT per capita exceeds existing citywide average VMT per capita minus 15 percent, or exiting regional average VMT per capita minus 15 percent, whichever is lower.	11.91 VMT per capita (Citywide Average)	10.12 VMT per capita

Project Types	Significant Criteria	Current Level	Threshold
General Employment Uses	Project VMT per employee exceeds exiting regional average VMT per employee minus 15 percent.	14.37 VMT per employee (Regional Average)	12.21 VMT per employee
Industrial Employment Uses	Project VMT per employee exceeds existing regional average per employee.	14.37 VMT per employee (Regional Average)	14.37 VMT per employee
Retail/Hotel/School Uses	Net increase in existing regional total VMT.	Regional Total VMT	Net Increase
Public/Quasi-Public Uses	In accordance with most appropriate type(s) as determined by Public Works Director.	Appropriate levels listed above	Appropriate thresholds listed above
Mixed-Uses	Evaluate each land use component of mixed-use project independently, and apply the threshold of significance for each land use type included.	Appropriate levels listed above	Appropriate thresholds listed above
Change of Use/Additions to Existing Development	Evaluate the full site with the change of use or additions to existing development, and apply the threshold of significance for each project type included.	Appropriate levels listed above	Appropriate thresholds listed above
Area Plans	Evaluate each land use component of the Area Plan independently, and apply the threshold of significance for each land use type included.	Appropriate levels listed above	Appropriate thresholds listed above

Notes:
VMT = Vehicle Miles Traveled
Source: City of San José, 2018 Transportation Analysis Handbook, Table 2.

The VMT threshold for industrial employment uses is the existing regional average VMT level of 14.37 per employee.

The City's Transportation Analysis Handbook includes screening criteria for projects that are expected to result in less than significant VMT impacts based on the Project Description, characteristics and/or location. The screening criteria for small infill industrial projects includes industrial projects of 30,000 square feet of total gross floor area or less. The project is proposing to construct an approximately 121,580-square-foot warehouse. Therefore, the project does not meet the screening criterion for small infill industrial projects. And since there is no other basis to screen out the project, a CEQA transportation analysis is required to address potential significant VMT impacts.

Project VMT Impact Analysis

Per the City's VMT Evaluation Tool, the existing Area VMT for employment uses is 14.74 VMT per worker, which is above the existing regional average threshold of 14.37 VMT per worker. The project VMT estimated by the Evaluation Tool is 14.69 VMT per worker, which also exceeds the industrial threshold of 14.37 VMT per worker. According to the City's Transportation Analysis Handbook,

projects located in areas where the existing VMT is above the established threshold are referred to as being in "high-VMT areas" and are required to include VMT reduction measures that would reduce the project VMT to the extent possible.

Since the VMT generated by the proposed project would exceed the threshold of significance for industrial employment uses in the area, the proposed project would result in a significant transportation impact for VMT, and mitigation is required. Based on the four VMT reduction strategy tiers included in the VMT Evaluation Tool, the Transportation Analysis recommends that the proposed project implement traffic calming measures and a Commute Trip Reduction Marketing and Education Program. It is assumed that 25 percent of the warehouse employees would participate in the Commute Trip Reduction Marketing and Education Program. Therefore, the proposed project would be required to implement MM TRANS-1.1, which would include traffic calming measures, and MM TRANS-1.2, which would include a commute trip reduction marketing campaign. With implementation of these mitigation measures, impacts would be reduced to a less than significant level.

Figures 6A and 6B in Appendix I show the VMT summary reports generated by the City's VMT Evaluation Tool without and with implementation of the required mitigation measures, respectively.

Based on the City's VMT Evaluation Tool, implementing MM TRANS-1.1 and MM TRANS-1.2 would lower the project's VMT to 14.25 per worker (a reduction of about 3.5 percent), which would reduce the project's impact to a less than significant level (below the industrial threshold of 14.37 VMT per worker).

Cumulative VMT Impact Analysis

Projects must demonstrate consistency with the General Plan to address cumulative impacts. Consistency with the City's General Plan is based on a consideration of all project aspects, including the project's density, design, and ability to further the General Plan goals and policies and not obstruct their attainment. If a project is determined to be inconsistent with the General Plan, a cumulative impact analysis is required as part of the City's Transportation Analysis Handbook.

According to the General Plan, the project site is designated as Industrial Park (IP). This land use designation is an industrial designation intended for a wide variety of industrial uses such as Research and Development (R&D), manufacturing, assembly, testing, and office uses. Industrial uses are consistent with this designation as far as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Warehouse uses are allowed where they are compatible with adjacent industrial uses and will not constrain future use of the subject site for industrial purposes.

The proposed warehouse use is consistent with the uses allowed within the IP land use designation and is consistent with the following City of San José Land Use Policies:

- Land Use Policy LU-6.4: Encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas with new industrial uses, particularly in locations which facilitate efficient commute patterns.

- Land Use Policy LU-6.5: Maintain and create Light Industrial and Heavy Industrial designated sites that are at least one acre in size in order to facilitate viable industrial uses.
- Land Use Policy LU-7.1: Encourage industrial supplier/service business retention and expansion in appropriate areas in the City.

The proposed project is consistent with the General Plan and would not require a General Plan Amendment (GPA). The construction of a new warehouse would facilitate the development of an industrial site and would help retain industrial designated land within the City. Thus, the proposed project would be considered part of the cumulative solution to meet the General Plan's long-range transportation goals and would result in a less than significant cumulative impact.

3) 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)?

Less than significant impact. The TA evaluated vehicular site access and on-site circulation. Site access was evaluated to determine the adequacy of the site's driveway with regard to the following: traffic volume, geometric design, sight distance, and operations (e.g., queueing and delay). On-site vehicular circulation and parking layout were reviewed in accordance with generally accepted traffic engineering standards and transportation planning principles.

Project Driveway Dimensions and Operations

As proposed, the project would provide one 26-foot-wide driveway and one 40-foot-wide driveway on Piercy Road. The proposed project would not have access to the existing unnamed access road that runs along the northern boundary of the site. Large trucks would be required to use the wider eastern driveway off Piercy Road for ingress and egress. Passenger vehicles and small trucks could use either driveway to access the site. It is expected that most vehicles would turn left from Piercy Road to enter the site and most vehicles would turn right to exit the site.

The project-generated trips that are estimated to occur at the project site are 15 inbound trips and five outbound trips during the AM peak-hour, and six inbound trips and 16 outbound trips during the PM peak-hour. Inbound and outbound vehicle trips would generally be unimpeded due to the extremely low traffic volumes on Piercy Road east of Hellyer Avenue, and there are no conflicting driveways on nearby properties along Piercy Road. Because of the low number of project-generated trips and low traffic volumes on Piercy Road east of Hellyer Avenue, operational issues related to vehicle queueing and/or delay are not expected to occur at the project driveways.

The City typically requires developments to provide adequate on-site stacking space for at least two inbound vehicles (40 to 50 feet) between the face of curb and any entry gates or on-site drive aisles or parking spaces. This prevents vehicles from queueing onto the street and blocking traffic. Approximately 50 feet of inbound vehicle stacking space would be provided between Piercy Road and the first drive aisle serving the project parking lot. According to the site plan, the proposed project would not add parking, a drive aisle, or a security gate within 50 feet of the street. Thus, adequate on-site stacking space would be provided at the project driveways.

Sight Distance at Project Driveway

The minimum acceptable sight distance is considered the Caltrans stopping sight distance. Sight distance requirements vary depending on roadway speeds. For driveways on Piercy Road, which has a posted speed limit of 30 miles per hour (mph), the Caltrans stopping sight distance is 250 feet (based on a design speed of 35 mph). Accordingly, a driver must be able to see 250 feet along Piercy Road in order to stop and avoid a collision. Both project driveways would meet the Caltrans stopping sight distance requirement. Therefore, sight distance at the project driveways would be adequate.

On-Site Vehicular Circulation and Parking Layout

On-site vehicular circulation was reviewed for the project in accordance with generally accepted traffic engineering standards and City of San José design guidelines. The City's standard minimum width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. This allows sufficient room for vehicles to back out of the parking stalls. According to the site plan, all the two-way drive aisles are shown to be at least 26 feet wide and would provide access to the 90-degree parking stalls throughout the site. The two-way drive aisle along the east side of the warehouse building would be 40 feet wide to accommodate trucks. This drive aisle would be utilized by trucks to access the secure container parking area on the northeast corner of the site.

The site plan shows one dead-end drive aisle on the east side of the building to accommodate the security gate that would separate the long container parking stalls from the standard vehicle parking stalls. However, since only passenger vehicles would potentially need to turn around, the 40-foot-wide drive aisle would provide sufficient room to perform a three-point maneuver.

Parking Stall Dimensions

The City's off-street parking design standard for 90-degree full-size parking stalls is 9 feet wide by 18 feet long. All the standard parking stalls shown on the site plan measure 9 feet wide by 18 feet long, which meets the City's design standard. The six Americans with Disabilities Act (ADA) accessible stalls also measure 9 feet wide by 18 feet long and include access aisles of 5 feet or more for van accessibility. These stall dimensions would meet ADA standards.

Truck Access and Circulation

The project site plan was reviewed for truck access using the truck turning movement template for CA Legal (WB-65) truck types. The WB-65 truck turning template was used to represent the largest semi-trailer trucks that would access the site. Based on the site plan configuration, adequate access would be provided for WB-65 type trucks to enter the eastern 40-foot-wide driveway on Piercy Road, pass through the security gate (with keypad access), and back into the loading docks (see Figure 9 of the TA). The project anticipates 10–15 container parking spaces would likely be occupied at any one time. Trucks would exit the same way they enter (see Figure 10 of the TA). Although WB-65 trucks would require the full width of Piercy Road when exiting the site, this situation is common for large trucks.

Overall

The proposed project site plan shows adequate site access and on-site circulation for automobiles, trucks (including emergency vehicles), and pedestrians; the proposed project would have a less than

significant impact with respect to substantially increasing hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

4) Would the project result in inadequate emergency access?

Less than significant impact. The SJFD requires that all portions of new buildings are within 150 feet of a fire department access road and requires a minimum of 6-foot clearance from the property line along all sides of the buildings. The Fire Code also requires driveways to provide at least 20 feet of width for fire access.

According to the project site plan, all areas of the building would be within 150 feet of a fire access road (i.e., drive aisle), and at least 6 feet of clearance would be provided around the perimeter of the building. The driveway widths as proposed would be adequate to accommodate emergency vehicles. Therefore, the proposed project would comply with the City's Fire Code requirements and impacts would be less than significant.

Impact TRANS-1

VMT generated by the proposed project would exceed the City's VMT threshold of 14.37 per employee by 0.32.

Mitigation Measures

The following multi-modal infrastructure improvement (Tier 2 VMT reduction strategy) and TDM measure (Tier 4 VMT reduction strategy) need to be implemented in order to mitigate the potentially significant VMT impact:

MM TRANS-1.1 Traffic Calming Measures

> Prior to issuance of certificate of occupancy, the project applicant shall shorten the northbound dual left-turn pocket and extend the raised median island on Hellyer Avenue at the Hellyer Avenue/Silver Creek Valley Road intersection. Public Works approved plans showing the required improvements shall be submitted to the Director of PBCE, or the Director's designee, for verification prior to the issuance of building permits.

MM TRANS-1.2 Commute Trip Reduction Marketing and Education

Prior to issuance of certificate of occupancy, the project applicant shall prepare a Marketing and Education Campaign Plan, to the satisfaction of the Director of PBCE in accordance with the Department of Public Works. The Marketing and Education Campaign Plan shall include strategies that would be implemented through a marketing campaign targeting all employees that would encourage the use of shared rides and active modes of transportation. Marketing strategies may include new employee orientation on alternative commute options, event promotions, and publications. The marketing materials shall provide information and encouragement to use transit services, shared ride modes (i.e., carpooling), and active modes to reduce drive-alone commute trips and, thus, Vehicle Miles Traveled (VMT). It is assumed that 25 percent of the warehouse employees would participate in the Commute Trip Reduction Marketing and Education Program. However, an annual monitoring report must be prepared by a traffic engineer and submitted to the City's Department of Public Works demonstrating the project is within 10 percent of the Average Daily Traffic (ADT) cap of 20 AM peak-hour trips and 22 PM peak-hour trips. If the project is not in conformance with the trip cap, the project may add additional TDM measures to meet the trip cap and a follow up report is required within six months. If the proposed project is still out of conformance, the City can assess penalties consistent with Council Policy 5-1

Standard Permit Conditions

None have been identified.

4.17.2 - Conclusion

With implementation of MM TRANS-1.1 and MM TRANS-1.2, impacts related to transportation would be less than significant.

4.18 - UTILITIES AND SERVICE SYSTEMS

The Preliminary Utility Plan, Preliminary Stormwater Control Plan, and Preliminary Grading and Drainage Plan are included as Figure 7a, Figure 7b, and Figure 7c, respectively.

Applicable Plans, Policies, and Regulations

National Pollutant Discharge Elimination System

Pursuant to Section 402 of the CWA and the Porter-Cologne Water Quality Control Act, municipal stormwater discharges are regulated under the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, Municipal Separate Storm Sewer Systems (MS4) Order No. 2013-001 (General Permit). In 1987, Congress amended the CWA to mandate controls on discharges from MS4s. Acting under the federal mandate and the California Water Code, the State Water Board require cities, towns, and counties to regulate activities that can result in pollutants entering their storm drains. All municipalities prohibit non-stormwater discharges to storm drains and require residents and businesses to use BMPs to minimize the amount of pollutants in runoff. The RWQCB oversees the NPDES. In 2013, the State Water Board reissued the Phase II Stormwater NPDES Permit for small MS4s. Provision E.12, "Post-Construction Stormwater Management Program," mandates municipalities to require specified features and facilities—to control pollutant sources, runoff volumes, rates, and durations, and to treat runoff before discharge from the site—in development plans of projects that create or replace 5,000 square feet or more of impervious surface as conditions of approval. The new requirements continue a progression of increasingly stringent requirements since 1989.

In 2014, the Bay Area Stormwater Management Agencies Association (BASMAA), through the BASMAA Phase II Committee, created the BASMAA Manual to assist applicants for development approvals to prepare submittals that demonstrate their project complies with the NPDES permit requirements. Applicants who seek development approvals for applicable projects should follow the manual when preparing their submittals. The manual is designed to ensure compliance with the requirements and promote integrated LID design.

Section E.12.c of the General Permit pertains to LID and how it relates to hydromodification management. This General Permit provision requires that stormwater discharges not cause an increase in the erosion potential of the receiving stream over the existing condition. Increases in runoff flow and volume must be managed so that the post-project runoff does not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks, silt pollutant generation, or other adverse impacts on beneficial uses due to increased erosive force.

California Urban Water Management Planning Act

The Urban Water Management Planning Act (California Water Code §§ 10610-10656) requires that all urban water suppliers prepare UWMPs and update them every 5 years.

Santa Clara Valley Water District 2020 Urban Water Management Plan

Valley Water meets the definition of an urban water supplier and has prepared UWMPs since 1985. This 2020 UWMP documents information on water supply, water usage, recycled water, water

conservation programs, water shortage contingency planning, and water supply reliability in Santa Clara County. It also serves as a resource for water supply planners and policy makers, and addresses the water supply future of Santa Clara County over the next 25 years. The 2020 UWMP updates and supersedes all previous UWMPs.[54]

California Integrated Waste Management Act (Assembly Bill 939)

To minimize the amount of solid waste that must be disposed of by transformation and land disposal, the State Legislature passed AB 939, the California Integrated Waste Management Act of 1989, effective January 1990. The legislation required each local jurisdiction in the State to set diversion requirements of 25 percent by 1995 and 50 percent by 2000; established a comprehensive Statewide system of permitting, inspections, enforcement, and maintenance for solid waste facilities; and authorized local jurisdictions to impose fees based on the types or amounts of solid waste generated. In 2007, the requirements were amended to introduce a new per capita disposal and goal measurement system that moves the emphasis from an estimated diversion measurement number to using an actual disposal measurement number as a per capita disposal rate factor. As such, the new disposal-based indicator (pounds per person per year) uses only two factors: (1) a jurisdiction's population (or in some cases employment) and (2) its disposal as reported by disposal facilities.

Assembly Bill 341

AB 341 sets forth the requirements of the Statewide mandatory commercial recycling program for businesses that generate four or more cubic yards of commercial solid waste per week and multi-family dwellings with five or more units in California. AB 341 sets a Statewide goal for 75 percent disposal reduction by the year 2020.

Assembly Bill 1826

AB 1826 sets forth the requirements of the Statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a Statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

*California G*reen Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

California adopted CALGreen in January 2020, which sets mandates for green building standards for all buildings in California and covers five categories: (1) planning and design, (2) energy efficiency, (3) water efficiency and conservation, (4) material conservation and resources efficiency, and (5) indoor environmental quality. The following mandatory set of measures are included in the standards which also includes more rigorous voluntary guidelines for new construction projects:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;

[54] Santa Clara Valley Water District (Valley Water). 2021. 2020 Urban Water Management Plan, pages 44-51. June.

- Recycling and/or salvaging 65 percent of nonhazardous Construction and Demolition (C&D) debris, or meeting the local C&D waste management ordinance, whichever is more stringent; and
- Providing readily accessible areas for recycling by occupants.

The City requires further waste reductions and requires 75 percent diversion of nonhazardous C&D for projects that qualify under CALGreen.

Senate Bill 1383

SB 1383 sets targets to achieve a 50 percent reduction in the level of Statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. This bill provides the California Department of Resources Recycling and Recovery (CalRecycle) the regulatory authority necessary to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of edible food that is currently disposed is recovered for human consumption by 2025.

San José Zero Waste Strategic Plan/Climate Smart San José

Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San José goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to utilities and service systems and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Utilities and Service System Policies

Policy	Description
Policy MS-1.4	Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.
Policy MS-3.1	Require water efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreation needs or other area functions.
Policy MS-3.2	Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.
Policy MS-3.3	Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Policy MS-19.1	Require new development to contribute to the cost-effective expansion of the recycled water system in proportion to the extent that it receives benefit from the development of a sustainable local water supply.
Policy MS-19.4	Require the use of recycled water wherever feasible and cost-effective to serve existing and new development.
Policy IN-1.5	Require new development to provide adequate facilities or pay its fair share of the cost for facilities needed to provide services to accommodate growth without adversely impacting current service levels.
Policy IN-3.3	Meet the water supply, sanitary sewer and storm drainage Level of Service (LOS) 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 storm waters and flooding to the site and other properties.
Policy IN-3.9	Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.
Policy IN-3.10	Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).
Policy IN-3.16	Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

4.18.1 - Environmental Checklist and Impact Discussion

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
1. 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?	☐	☐	☒	☐
2. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	☒	☐

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
3. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
4. 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?	☐	☐	☒	☐
5. Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?	☐	☐	☒	☐

Impact Discussion

1) 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?

Less than significant impact. The proposed project would construct a new 4-inch domestic water line that would connect to the existing 12-inch water line located in Piercy Road. The proposed use is consistent with the General Plan land use designation and zoning for the site (i.e., IP). The General Plan EIR concluded that with the implementation of existing regulations and adopted General Plan policies and actions, any physical impacts resulting from construction of utilities and service systems to serve increased demands at buildout of the General Plan would be less than significant.

The proposed project would construct a new 4-inch domestic water line that would connect to the existing -inch water line in Piercy Road. The proposed project would not require the construction of new or expanded water lines upstream of the project. In addition, the proposed project would not result in the construction of new or expanded water supply facilities beyond what was assumed in the General Plan EIR. For these reasons, the proposed project would have a less than significant environmental effect on existing water supply and conveyance facilities. Also, see discussion under Checklist Question 2.

The proposed project would construct a new 6-inch sanitary sewer line that would connect to the existing 12-inch sewer line in Piercy Road. The proposed project would not require the construction of new or expanded sewer lines downstream of the project. The proposed project would not result in the construction or expansion of existing wastewater treatment facilities beyond what was assumed in the General Plan EIR. For these reasons, the proposed project would have a less than significant environmental effect on existing wastewater treatment facilities. Also, see discussion under Checklist Question 3.

The City of San José owns and maintains the municipal storm drainage system, which serves the project site. As discussed in Section 4.10, Hydrology and Water Quality, of this Initial Study, the proposed project would increase impervious surface areas over existing conditions by 265,452 square feet (14,482 square feet of impervious surfaces pre-project versus 279,934 square feet of impervious surfaces post-project; see Figure 7b). To mitigate this increase in stormwater runoff resulting from the additional impervious area associated with the proposed project, BAHM was utilized to design flow control structures to maintain the magnitude and duration of post-project flows to the same level as pre-project flows. Based on proposed land use and acreage, three bioretention areas were designed with oversized outflow structures for the hydromodification requirements previously stated. Additionally, a 30-inch RCP storage pipe with an orifice-controlled outlet structure at the downstream end of the storm drain system was designed with BAHM to further mitigate the post stormwater runoff flow and duration. The proposed project would comply with the stormwater regulations by directing stormwater runoff to bioretention areas and other landscaping before being discharged to the storm drainage system. The new on-site storm drainage facilities would be designed and constructed to meet the requirements of the San Francisco Bay RWQCB Municipal Regional Stormwater NPDES Permit and City Policy 6-29.

As shown in Figures 7a, 7b, and 7c, the proposed project includes the installation of new 30-inch storm drain lines within the project site, connecting to an existing 48-inch storm drain line within Piercy Road that ultimately connects to the existing storm drain manhole in Piercy Road. The proposed on-site stormwater runoff treatment process would not exceed the capacity of the City's existing storm drain system. Therefore, the proposed project would not result in significant environmental impacts due to the expansion of stormwater drainage facilities or construction of new facilities, as improvements are limited to activities on-site.

The proposed project would include underground telecommunications service lines along the southern edge of the project site along the project site's frontage with Piercy Road. The proposed project would also include electrical service lines along the project site's frontage with Piercy Road. The proposed project would include the construction of two transformers on the northern side of Piercy Road at the south of the site (see Figure 7a).

No other relocations or expansions to existing utilities are required to serve the proposed development. For all of the above reasons, the project impact would be less than significant.

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

Less than significant impact. The San José Municipal Water System supplies water service to the site. During construction, water would be required primarily for dust suppression and would also be used for soil compaction. Construction water volumes would be minimal and would not require new or expanded water supplies or entitlements. Furthermore, the proposed project is not considered a "Water Demand Project" under CEQA Guidelines Section 15155. Therefore, it does not require a project-level Water Supply Assessment (WSA).

The proposed project would increase water demands relative to existing conditions. The new landscaping and bioretention areas would be irrigated using drip irrigation technology. The design

and construction of the irrigation system would conform to the City's adopted water efficient landscape ordinance.

As part of the WSA for the General Plan,[55] the San José Municipal Water System evaluated the water demand for office and industrial jobs, including the proposed project site. Based on these demand rates and the number of employees anticipated for the proposed project, the proposed project would have a water demand of approximately 29,680 gallons per day (GPD).[56] This is equivalent to 33.25 AFY.[57] Water demand associated with the proposed project would represent 0.12 percent of the 25,856 AFY project San José Municipal Water System (SJMWS) water supply in 2025. Therefore, the increase in water demand as a result of the proposed project is within the anticipated increase accounted for in the 2020 SJMWS UWMP[58] and would remain consistent with what is anticipated in the General Plan. The existing entitlements for water supplies to the City are sufficient to continue to meet the needs of San José during normal, dry, and multiple dry years, in addition to the water demands generated by the project. Therefore, impacts due to insufficient water supplies or inadequate entitlements would be less than significant.

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

Less than significant impact. The San José-Santa Clara Regional Wastewater Facility maintains and operates the wastewater collection and treatment system of the City, including the project site. As discussed under Checklist Question 1, the proposed project would construct a new 6-inch sanitary sewer line that would connect to the existing 12-inch sewer line within Piercy Road. The San José-Santa Clara Regional Wastewater Facility currently treats 110 million gallons of wastewater per day (mgd) on average and has the capacity to treat 167 mgd. The proposed project includes the development of a new speculative light industrial building, truck distribution center and ancillary office. The proposed project would result in an increase in wastewater generation as compared to vacant conditions.

Because the proposed use is consistent with the land use anticipated in the General Plan, wastewater generated by the proposed project is consistent with the service needs anticipated by the General Plan and would not require the expansion of treatment facilities or the construction of new facilities. Wastewater flows from the proposed project would be conveyed to the San José-Santa Clara Regional Wastewater Facility, which has sufficient operating capacity to handle the additional flows generated by the proposed project. The project is not expected to exceed wastewater treatment requirements set forth by the San Francisco Bay RWQCB, nor necessitate the expansion or construction of wastewater treatment facilities. Therefore, the proposed project would not exceed wastewater treatment requirements and impacts would be less than significant.

[55] City of San José. 2010. Water Supply Assessment for Envision San José 2040 General Plan Update. September. Website: https://www.sanjoseca.gov/Home/ShowDocument?id=22755. Accessed December 27, 2021.

[56] The WSA assumed an office, manufacturing, and industrial water demand factor of 371 gallons per day per employee in Edenvale. Total Water Demand = (371 GPD per employee*80 employees) = 29,680 GPD

[57] 29,680 GPD * 365 days = 10,833,200 gallons per year * 1 acre-foot per 325,851 gallons = 33.25 AFY

[58] City of San José. 2021. 2020 Urban Water Management Plan. June. Website: https://www.sanjoseca.gov/home/showpublisheddocument/422/637602045327100000. Accessed December 27, 2021.

4) 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?

Less than significant impact. Construction of the proposed project would involve the generation of construction debris from demolition of the existing building and the removal of hardscaped surfaces, trees, and other landscaping. Through the process of acquiring building, utility, and site permits from the City, the proposed project would be required to comply with the City's C&D Diversion Program, which ensures that at least 75 percent of the construction waste is diverted from landfills. Material that cannot be recycled or reused would be transported to the Guadalupe Landfill, located in the City, or to other appropriate regional landfills.

During the operational phase of the proposed project, solid waste would be collected by the City's exclusive franchise hauler, Republic Services. All solid waste generated by businesses in San José would be processed, and the residue would be landfilled at the Newby Island Landfill. Solid waste can be self-hauled to any landfill including Guadalupe Landfill. The proposed project would generate additional solid waste as compared to existing conditions. The Guadalupe Landfill is permitted to receive 1,300 tons per day, and as of January 1, 2011, the landfill had a remaining capacity of 11,055,000 cubic yards.[59] The General Plan EIR concluded that the increase in waste generated by full buildout under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City.

Future increases in solid waste generation from development allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. The City's Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that full buildout of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population. Therefore, implementation of the proposed project would have a less than significant impact on the solid waste disposal capacity. In addition, the proposed project would not impede the ability of the City to meet waste diversion requirements or violate other applicable federal, State, and local statutes and regulations related to solid waste. Impacts would be less than significant.

5) Would the project comply with federal, State, and local management and reduction statutes and regulations related to solid waste?

Less than significant impact. The proposed project would generate additional solid waste as compared to existing conditions. The proposed development would be required to comply with applicable federal, State, and local regulations related to solid waste such as AB 939, the City's C&D Diversion Program, which ensures that at least 75 percent of the construction waste is diverted from landfills, and SB 1383 to achieve a 50 percent reduction in organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. Therefore, a portion of solid waste would be diverted from landfill through recycling, composting, and other methods in compliance with federal, State, and local management and reduction statutes. Therefore, the proposed project would not violate

[59] California Department of Resources Recycling and Recovery (CalRecycle). 2011. Guadalupe Sanitary Landfill (43-AN-0015). Website: https://www2.calrecycle.ca.gov/SolidWaste/SiteActivity/Details/1376?siteID=3399. Accessed September 16, 2021.

applicable federal, State, and local statutes and regulations related to solid waste, and impacts would be less than significant.

Mitigation Measures

None have been identified.

City Standard Permit Conditions

None have been identified.

4.18.2 - Conclusion

Impacts on utilities and service systems would be less than significant.

4.19 - WILDFIRE

4.19.1 - Environmental Setting

The project site is located in an Industrial Park designated area and is bound by Piercy Road, vacant land, and commercial uses. The site is currently vacant and is partially graded and has utilities installed. A portion of the site is relatively flat except on the northeast side where there is a northwest-southeast trending ridge. A Valley Water easement and canal is located on the northeast perimeter, and a PG&E easement is located on the southwest perimeter of the site.

Applicable Plans, Policies, and Regulations

California Fire Code

The California Fire Code, codified as California Code of Regulations, Title 24, Part 9, includes provisions associated with emergency planning and preparedness, fire protection systems, and means of egress. In addition, the Fire Code provides appendices detailing fire-flow requirements for new buildings, fire hydrant locations and distribution, and fire apparatus access roads. Local governments administer the Fire Code. New development projects must demonstrate compliance with applicable Fire Code requirements at the time building permits are issued.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects within the City. The following policies are specific to wildfire resources and are applicable to the proposed project.

Envision San José 2040 General Plan Relevant Wildfire Policies

Policies	Description
EC-8.1	Minimize development in very high fire hazard zone areas. Plan and construct permitted development so as to reduce exposure to fire hazards and to facilitate fire suppression efforts in the event of a wildfire.
EC-8.2	Avoid actions which increase fire risk, such as increasing public access roads in very high fire hazard areas, because of the great environmental damage and economic loss associated with a large wildfire.
EC-8.3	For development proposed on parcels located within a very high fire hazard severity zone or wildland-urban interface area, implement requirements for building materials and assemblies to provide a reasonable level of exterior wildfire exposure protection in accordance with City-adopted requirements in the California Building Standards Code.
EC-8.4	Require use of defensible space vegetation management best practices to protect structures at and near the urban/wildland interface.

City of San José Municipal Code

The City of San José Municipal Code includes Chapter 17.12 (City of San José Fire Code) which outlines the requirements of compliance with the 2019 California Fire Code.[60] This chapter includes provisions on general precautions against fire, emergency planning and fire service, fire protection, construction requirements, etc.

4.19.2 - Environmental Checklist and Impact Discussion

If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
1) Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☒	☐
2) 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?	☐	☐	☒	☐
3) 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?	☐	☐	☒	☐
4) 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?	☐	☐	☒	☐

Impact Discussion

According to California Department of Forestry and Fire Protection (CAL FIRE) Hazard Severity Zone maps, the project site is not within a Very High Fire Hazard Severity Zone.[61] However, approximately 3.16 acres of the project site, along the northeastern site boundary, is located within a within a High Fire Hazard Severity Zone. The majority of the project site is located in an LRA and the northwestern portion of the site is located within a State Responsibility Area (SRA) (Figure 13).[62]

1) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

Less than significant impact. The proposed project does not include permanent road closures or lane narrowing that would interfere with an emergency response plan or evacuation plan. According

[60] City of San José. 2020. City of San José Municipal Code – Chapter 17.12 City of San José Fire Code. Website: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT17BUCO_CH17.12CISAJOFICO. Accessed September 16, 2021.

[61] California Department of Forestry and Fire Protection (CAL FIRE). 2008. Very High Fire Hazard Severity Zones in LRA. Website: https://osfm.fire.ca.gov/media/5935/san_jose.pdf. Accessed September 15, 2021.

[62] California Department of Forestry and Fire Protection (CAL FIRE). 2007. Fire Hazard Severity Zones in SRA. Website: https://osfm.fire.ca.gov/media/6766/fhszs_map43.pdf. Accessed September 28, 2021.

to Section 4.15, Public Services, the SJFD would be able to adequately serve the proposed project. Therefore, with compliance to the City Municipal Code and the California Fire Code and adequate service from the SJFD, the proposed project would not impair an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant.

2) Due to slope, prevailing winds, and other factors, would the project exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Less than significant impact. The project site is located in a recognized fire prone area, as indicated by CAL FIRE. The project site is relatively flat, except for the northwest-southeast trending ridge in the northeast portion of the site.

The BAAQMD monitors wind speeds at locations in the Bay Area with the closest being in the San José–Jackson Street station, approximately 8.5 miles northwest of the project site. The average wind speeds at the San José–Jackson Street station in 2020 ranged from 3 to 4 mph.[63] As a result, the proposed project is not located on a project site with severe slopes or high prevailing winds that would further exacerbate wildfire risk.

Furthermore, the proposed project would comply with the California Fire Code with regards to emergency access and types of building materials. The proposed project would also comply with the General Plan Policy EC-8.4 requiring defensible space, as the project site is located in a wildland-urban interface area. In addition, the proposed project would comply with the requirements stated in the City of San José Fire Code, including the requirement that plans for proposed projects be reviewed and approved by the SJFD to ensure that all requirements for projects located in a wildland-urban interface area are satisfied.

Compliance with required fire protection measures set forth in the City of San José Municipal Code and the California Fire Code would reduce risk of loss, injury, or death due to wildland fires to less than significant levels.

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

Less than significant impact. The project site is located within a High Fire Hazard Severity Zone. The proposed project would not require new roadways, fire breaks, installation of emergency water sources, or overhead power lines. The proposed project would include transformers and roadway improvements along Piercy Road. However, the proposed project would comply with the applicable fire safety provisions of the 2019 CBC, thereby reducing the risk of damage from fire to the maximum extent practicable. Thus, the proposed project would not result in significant impacts related to infrastructure that exacerbates fire risk. Impacts would be less than significant.

[63] Bay Area Air Quality Management District (BAAQMD). 2021. BAAQMD – Air Quality Data – Santa Clara Valley. Website: https://www.baaqmd.gov/about-air-quality/current-air-quality/air-monitoring-data/#/met?date=2020-12-16&id=203&view=monthly&style=chart&zone=93773827-1afa-4151-9aa9-dcfc6d512a66. Accessed December 17, 2021.

4) Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less than significant impact. The project site is bound by vacant land, Piercy Road, and commercial uses. Additionally, the proposed project is located within a relatively flat area with a ridge on the northeast corner of the site in an industrial area. The proposed project would provide 6-foot-tall debris flow walls along the western and northern perimeter of the project site that would serve as retaining walls for slope protection.

Compliance with City regulations including a City Grading and Drainage Plan, Erosion Control Measures, BMPs would reduce the risk of possible impacts related to flooding and landslides. Therefore, the proposed project would not result in significant impacts related to flooding or landslides. Impacts would be less than significant.

Mitigation Measures

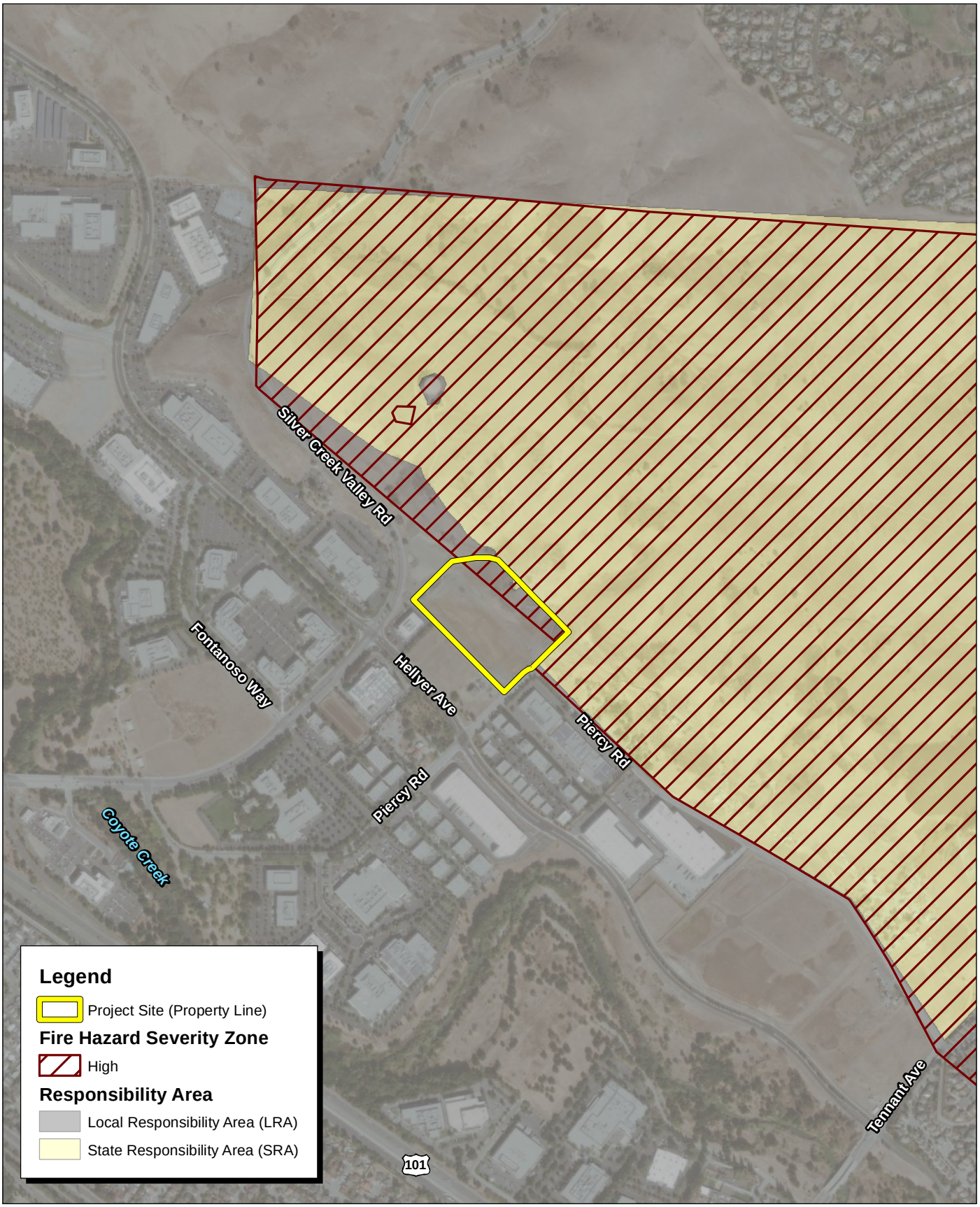
None have been identified.

Standard Permit Conditions

None have been identified.

4.19.3 - Conclusion

Impacts to wildfire would be less than significant.



Source: ESRI Aerial Imagery. RGA, 07/27/2021. Cal Fire FRAP.

FIRSTCARBON SOLUTIONS™

1,000 500 0 1,000 Feet

Figure 13
Fire Hazard Severity Zone

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4.20 - MANDATORY FINDINGS OF SIGNIFICANCE

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

4.20.1 - Project Impacts

Less than significant impact with mitigation incorporated. As discussed in this Initial Study, with adherence to the City's Standard Permit Conditions and proposed mitigation measures, the proposed project would not degrade the quality of the environment. The proposed project could result in impacts to biological resources, specifically, nesting birds, Santa Clara Valley dudleya, Bay checkerspot butterfly, burrowing owl, serpentine habitat, and City-protected trees. However, impacts would be avoided or reduced to a less than significant level by adherence to Standard Permit Condition (Santa Clara Valley Habitat Plan), which requires payment of the nitrogen deposition fee and compliance with other applicable SCVHP conditions to comply with the SCVHP, Standard Permit Condition (Tree Protection Standards), which requires maintenance of the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set, and Standard Permit Condition (Tree Removal) identifies tree replacement requirements and ratios, and compliance with MM BIO-1, which would establish Serpentine Habitat and Plant Protection Area, MM BIO-2, which would require pre-construction surveys and avoidance of burrowing owl, and MM BIO-3, which require protection of active bird nests via pre-construction surveys, scheduling demolition and construction activities outside of nesting season, and implementation of avoidance buffers if found.

The proposed project could result in impacts to cultural and tribal cultural resources, should they be discovered on-site during ground-disturbing activities. However, impacts would be reduced with adherence to Standard Permit Conditions (Subsurface Cultural Resources and Human Remains). The proposed project would also implement MM CUL-1.1, which would require Tribal Cultural Awareness Training, MM CUL-1.2, which would require full-time Native American monitoring for all project-related ground disturbance at the project site, and MM CUL-1.3, which would require evaluation of any historic or prehistoric material identified in the project area during excavation activities be evaluated for eligibility for listing in the CRHR as determined by the OHP .

The proposed project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. In addition, the City's Standard Permit Condition related to discovery of vertebrate fossils during construction would be implemented to further ensure that impacts to paleontological resources would be less than significant.

With implementation of the aforementioned mitigation measures and adherence to the City's Standard Permit Conditions, the proposed project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

4.20.2 - Cumulative Impacts

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

The proposed project would have no impacts related to agricultural and forestry resources, land use, and population and housing. The project, therefore, would not contribute to cumulative impacts to these areas.

With mitigation, the proposed project would result in less than significant impacts related to air quality. These impacts would primarily be related to construction period activities, would be temporary in nature, and would not substantially contribute to any potential cumulative impacts associated with these topics. Specifically, since the proposed project would not exceed BAAQMD thresholds of significance related to air quality, the proposed project would not result in a cumulatively considerable net increase of construction emissions (with the implementation of MM AIR-1) or operational emissions. As discussed more fully in Section 4.8 of this Initial Study, GHG emissions-related impacts are inherently cumulative in nature. The proposed project also would not conflict with any applicable GHG plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs with implementation of MM TRAN-1.1 and MM TRAN 1.2 for TDM measures. As such, the proposed plan, in conjunction with other existing, planned, and probable foreseeable

projects, would not result in a significant cumulative impact related to GHG emissions generation. As for transportation and traffic impacts, the proposed project's layout was reviewed by a traffic consultant and would be reviewed by the SJFD to ensure there would not be any impacts related to hazardous design feature and inadequate emergency access during construction and operation. MM TRAN-1.1 and MM TRAN-1.2 would require traffic calming measures and Commute Trip Reduction Marketing and Education Program to lower the project's VMT. Because the proposed project is consistent with the General Plan land use and zoning, the proposed project would be considered part of the cumulative solution to meet the General Plan's long-range transportation goals.

The proposed project would adhere to all applicable City design standards, Standard Permit Conditions, and the Municipal Code related to aesthetic, hydrology and water quality, public services, recreation, utilities and service systems, and wildfire to ensure impacts remain less than significant and therefore would not contribute to cumulative aesthetic, hydrology and water quality, public services, recreation, utilities and service systems, and wildfire impacts.

The project's cultural resources, geology and soils, hazards and hazardous materials, and minerals impacts are specific to the project site and would not contribute to cumulative impacts elsewhere.

In summary, the previously discussed mitigation measures shall be implemented as part of the project and these mitigation measures would reduce impacts to a less than significant level. The proposed project would not result in any potentially significant and unavoidable cumulative impacts. No additional mitigation measures would be required to reduce cumulative impacts. Therefore, with implementation of the specified mitigation measures, the proposed project would have less than significant cumulative impacts.

4.20.3 - Direct or Indirect Adverse Effects on Human Beings

Less than significant impact with mitigation incorporated. As reflected in this Initial Study, the project does not have the potential to result in substantial adverse impacts to humans.

The proposed project could result in potentially significant impacts related to GHG emissions. However, with implementation of MM TRANS-1.1 and MM TRANS-1.2, the proposed project would establish and implement traffic calming measures and a Commute Trip Reduction Marketing and Education Program, respectively, thus ensuring consistency with the City's GHG Reduction Strategy and reducing impacts to a less than significant level.

The proposed project could result in temporary air quality and noise impacts during construction. However, with adherence to the Standard Permit Conditions described in this Initial Study, emissions of criteria pollutants and construction-generated noise impacts would be less than significant.

Although emissions of criteria pollutants would be less than significant with adherence to City Standard Permit Conditions, based on project-specific modeling, construction would result in DPM emissions exceeding BAAQMD cancer risk thresholds. However, with implementation of MM AIR-1, which would ensure all off-road equipment equal to or greater than 50 horsepower meet Tier IV emission standards, emissions would be reduced below BAAQMD thresholds.

The proposed project could result in temporary construction noise impacts at off-site sensitive receptors. However, adherence to Standard Permit Condition (Construction-Related Noise), which requires implementation of noise minimization measures during construction, potential impacts would be less than significant.

The proposed project could result in potentially significant impacts related to release of hazardous materials as the project site and the neighboring area historically have been used for agricultural applications. However, implementation of MM HAZ-1, requires a Phase II soil contamination investigation to determine whether contamination on the project site, if present, exceeds RWQCB environmental screening levels. In addition, the project implementation of MM HAZ-2 (Asbestos Dust Mitigation Plan) would minimize potential impacts resulting from potential disturbance of naturally occurring asbestos. As a result, these potential impacts would be less than significant.

With adherence to Standard Permit Conditions identified in this Initial Study and compliance with mitigation measures listed in this Initial Study, environmental effects that would directly or indirectly impact human beings on-site or in the project vicinity would be reduced to less than significant levels. Therefore, the proposed project would have less than significant adverse impacts on humans.

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