

# **Addendum**

to the Final Program Environmental Impact Report  
for the North San José Development Policies Update  
(SCH# 2004102067)

# **ROSEMARY HOUSING**

File No. PDC07-101

Prepared by the



June 2008

## **PREFACE**

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### **PURPOSE OF AN ADDENDUM**

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusions in the environmental document.

In June 2005, the City of San José certified the Final Program Environmental Impact Report (EIR) for the North San José Development Policies Update (SCH# 2004102067) that allows for 26.7 million square feet of new industrial/office/Research & Development uses, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new residential units in the Rincon Area.

The purpose of this Addendum is to analyze the impacts of the Rosemary Housing project, which proposes the development of up to 106 senior and 184 family affordable housing units on an approximately four-acre site located in north San José.

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 state that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR, if some changes or additions are necessary, but none of the conditions described in §15162 (see above) requiring the preparation of a subsequent EIR have occurred.

Based on the description of the proposed project, knowledge of the project site, and the attached analysis, the City concludes that the proposed project would not result in any new impacts not previously disclosed in the North San José Development Policies Update EIR or substantially increase the magnitude of any significant environmental impacts previously identified in the EIR. For these reasons, an addendum to the North San José Development Policies Update EIR has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to the North San José Development Policies Update EIR, pursuant to CEQA Guidelines §15164(c).





## **SECTION 1.0 INTRODUCTION AND PURPOSE**

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This Addendum is being prepared to conform to the requirements of the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 *et. seq.*), and the regulations and policies of the City of San José.

This Addendum evaluates the environmental impacts that can reasonably be anticipated to result from the proposed rezoning of an approximately four-acre site in north San José from *Commercial Neighborhood, Commercial General, and Light Industrial* to *A(PD) – Planned Development* and the development of up to 106 senior and 184 family affordable housing units.

The City of San José is the Lead Agency under CEQA and has prepared this Addendum to address the impacts of implementing the proposed rezoning on the project site.

### **Tiering of the Environmental Review**

In accordance with CEQA Sections 21093(a) and 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the City of San José Final Program EIR for the North San José Development Policies Update (State Clearinghouse #2004102067) certified by the City Council in June 2005 (hereinafter referenced as the NSJ FPEIR).

CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the lead agency. “Tiering” refers to using the analysis of general matters contained in a broader Environmental Impact Report (EIR) (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/negative declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project [CEQA Guidelines 15152(a)].

Tiering is appropriate when it helps a public agency to focus on issues at each level of environmental review and to avoid or eliminate duplicative analysis of environmental effects examined in previous environmental impact reports [CEQA Section 21093(a)].

The amount of residential development proposed was included and analyzed in the certified 2005 NSJ FPEIR, and the FPEIR evaluated, at a program level, developing residential uses on the project site. This Addendum evaluates the project-specific environmental impacts that were not addressed in the 2005 NSJ FPEIR. The CEQA Guidelines (§15164 and 15162) describe a process for evaluating the potential significance of new information. The process can reach one of three conclusions:

1. The new information does not result in the identification of a new significant environmental impact not already addressed in the EIR, and it does not identify a substantial increase in the magnitude of a previously-identified significant environmental impact. Therefore, no additional environmental review is required.
2. The new information does result in identification of a new significant environmental impact not previously disclosed in the EIR and/or it identifies a substantial increase in the magnitude of a previously-identified significant environmental impact. Therefore, preparation of a Supplemental EIR is required.
3. In order to make a determination of whether the existing EIR is adequate or whether preparation of a Supplemental EIR is warranted, further technical studies are required.

## **SECTION 2.0 PROJECT INFORMATION**

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### **2.1 PROJECT TITLE**

Rosemary Housing

### **2.2 PROJECT LOCATION**

The approximately four-acre project site is located in the southeast quadrant of the North First Street and East Rosemary Street intersection in north San José. The project site is bounded by North First Street to the west, East Rosemary Avenue to the north, residential development to the east, and Interstate 880 to the south.

The surrounding land uses include commercial uses west and north of the project site and residential uses east of the project site. Regional and vicinity maps of the project site are shown on Figure 2.0-1 and 2.0-2, respectively. An aerial photograph showing the surrounding land uses is on Figure 2.0-3.

### **2.3 PROPERTY OWNER/PROPONENT**

ROEM Development Corporation  
Jonathan Emami  
1650 Lafayette Street  
Santa Clara, CA 95050  
(408) 984-5600 ext. 22

### **2.4 LEAD AGENCY CONTACT**

City of San José  
Department of Planning, Building, and Code Enforcement  
John Baty, Project Planner  
200 East Santa Clara Street  
San José, CA 95113-1905  
(408) 535-7894

### **2.5 ASSESSOR'S PARCEL NUMBERS**

235-05-013, 235-05-014, 235-05-015, 235-05-016 and 235-05-012

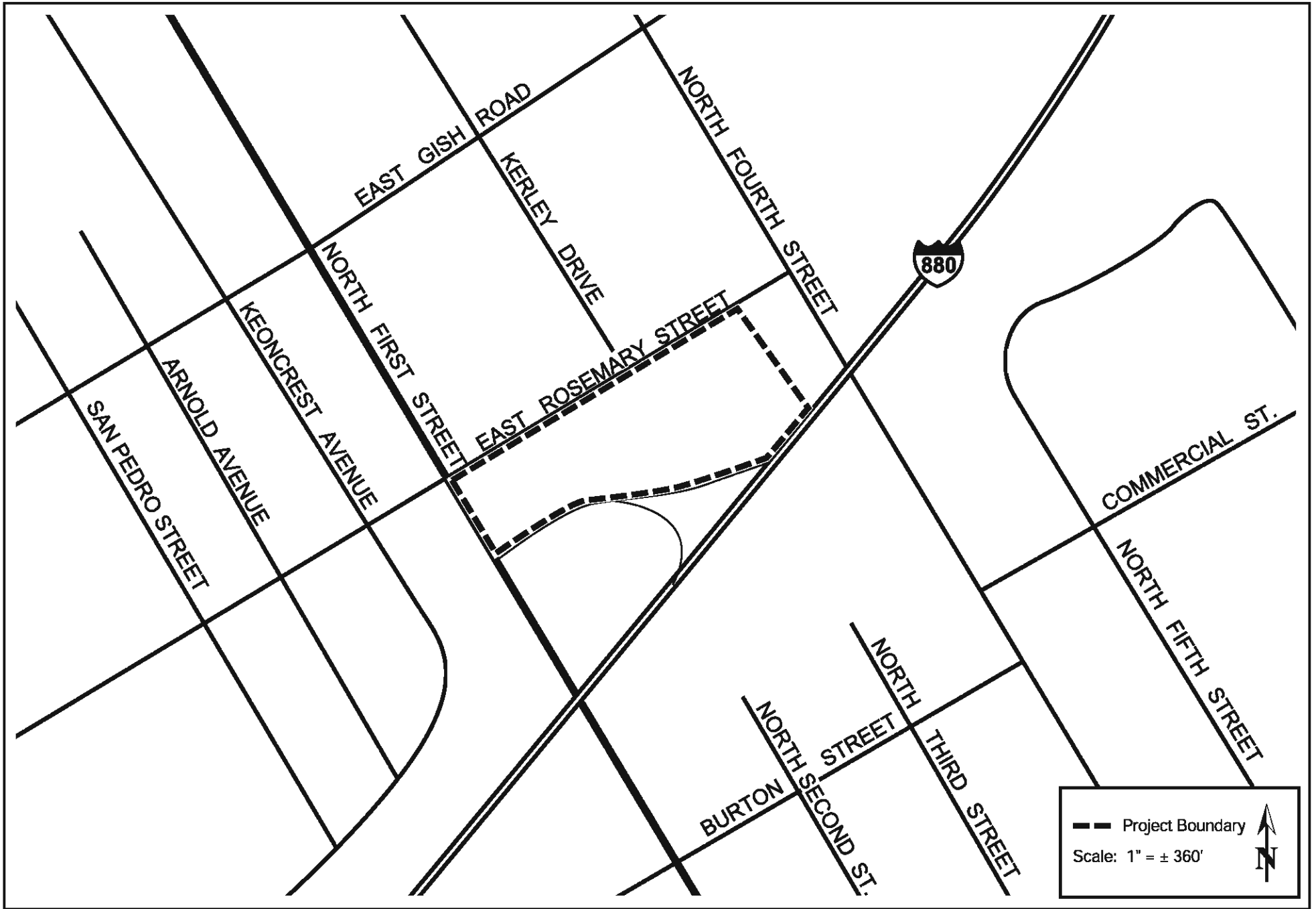
### **2.6 GENERAL PLAN LAND USE DESIGNATION AND ZONING DESIGNATION**

General Plan Land Use Designation: *Transit Corridor Residential (25-65 DU/AC)*

Zoning Designation: *Commercial Neighborhood, Commercial General, and Light Industrial*







VICINITY MAP

FIGURE 2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2-3

## **SECTION 3.0 PROJECT DESCRIPTION**

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### **3.1 OVERVIEW OF THE PROPOSED PROJECT**

The project site's existing General Plan land use designation is *Transit Corridor Residential (25-60 DU/AC)* and its zoning is *Commercial Neighborhood, Commercial General, and Light Industrial*. The project site is currently developed with four commercial buildings and associated paved parking areas.

The project proposes to rezone the site to *A(PD) – Planned Development* and to develop up to 106 senior and 184 family housing units on the approximately four-acre site (i.e., approximately 73 dwelling units per acre). One hundred percent of both the senior and family housing proposed by the project will be low income housing. Prior to development of the project, the existing development on the site would be demolished and removed from the site. The project applicant anticipates completing the construction of the project in three phases over five years, starting in 2008.

A detailed description of the proposed project is provided below.

### **3.2 SENIOR HOUSING**

Up to 106 senior housing units are proposed by the project. These would all be one-bedroom units and would be constructed over a podium garage in one building. The senior housing building would front East Rosemary Street on the west side of the project site adjacent to North First Street and would be four stories tall with a maximum height of approximately 50 feet.

#### **3.2.1 Open Space**

As shown on Figure 3-1, the senior housing building would include a central courtyard common open space area for the residents of the building. In addition to the common open space area, each unit would have a private balcony or patio that would be located on the interior of the building facing the central courtyard or on the building exterior facing the adjacent residential or commercial land uses.

#### **3.2.2 Parking**

On-site parking for the senior housing units would be provided beneath the building in a partially below-grade garage. The proposed garage would provide a total of 77 parking spaces for cars, and bicycle parking.

#### **3.2.3 Access**

One driveway from East Rosemary Street would provide vehicular ingress and egress to the proposed senior housing building parking garage. Sidewalks on North First and East Rosemary Street would provide pedestrian access to the senior housing building.

### **3.3 FAMILY HOUSING**

Up to 184 family housing units are proposed by the project, including 38 one-bedroom, 110 two-bedroom, and 36 three-bedroom units. The family housing units would be constructed in one

building over a podium garage that would front East Rosemary Street immediately east of the proposed senior housing building. The building would be four stories tall with a maximum height of approximately 50 feet.

### **3.3.1            Open Space**

As shown on Figure 3-1, the family housing building would include two landscaped common open space areas for the residents of the building. In addition to the common open space areas, each unit would have a private balcony or patio that would be located on the interior of the building facing the central courtyard or on the building exterior facing the adjacent residential or commercial land uses.

### **3.3.2            Parking**

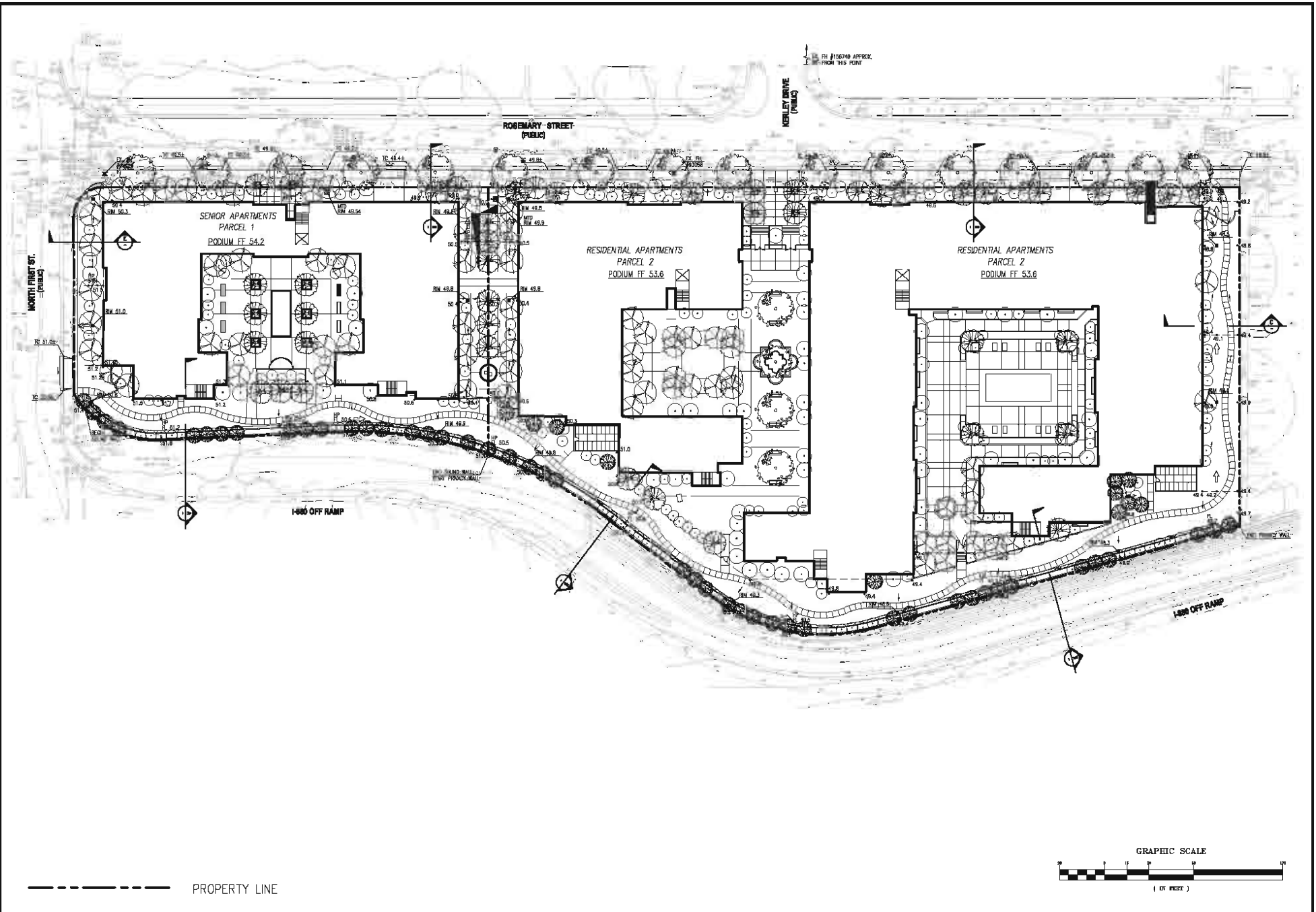
Parking for the family housing units would be provided on-site in a partially below-grade garage. The garage beneath the family housing building would provide a total of 294 parking spaces for cars, 46 spaces for motorcycles, and areas for bicycle parking.

### **3.2.3            Access**

Similar to the senior housing building, one driveway from East Rosemary Street would provide vehicular ingress and egress to the family housing building parking garage. Sidewalks on East Rosemary Street would provide pedestrian access to the family housing building.

## **3.4                RIGHT-OF-WAY DEDICATION**

The project proposes to dedicate public street right-of-way for sidewalk improvements on North First Street and East Rosemary Street.



SITE PLAN

FIGURE 3-1

## **SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS**

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In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the City of San José 2005 NSJ FPEIR (approved June 2005).

The development of residential uses on the site was included and analyzed in the certified 2005 NSJ FPEIR, and the FPEIR evaluated, at a program level, the environmental impacts of developing residential uses on the project site. This Addendum evaluates the project-specific environmental impacts of the proposed development that were not addressed in the 2005 NSJ FPEIR.

This section, **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, describes the existing environmental conditions on and near the project site and the environmental impacts that could result from the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the “Proposed Project” with those of the “Approved Project” (i.e., development approved in the 2005 NSJ FPEIR) and to identify whether the proposed project would likely result in new significant environmental impacts. The right-hand column in the checklist lists the source(s) of information for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370). Measures that are required by law or are City standard conditions of approval are categorized as “Standard Measures.” Measures that are proposed by the applicant that will further reduce or avoid already less than significant impacts are categorized as “Avoidance Measures.”

### **4.1 AESTHETICS**

#### **4.1.1 Setting**

##### **4.1.1.1 *Project Site***

The approximately four-acre site is located in the southeast quadrant of the North First Street and East Rosemary Street intersection in north San José. The project site is bounded by North First Street to the east, East Rosemary Street to the north, and Interstate 880 to the south (refer to Figure 2.0-3). The site and surrounding area are flat and, as a result, the project site is only visible from the immediate area. Interstate 880 is elevated on fill adjacent to the project site, which blocks views of the project site from the south.

The project site is currently developed with four older commercial buildings and surface parking lots. The existing one- or two-story commercial buildings range in height from approximately 17 to 27 feet and range in size from approximately 6,500 to 24,500 square feet. Landscaping on the project site includes numerous trees and shrubs, many of which have been neglected. The three eastern buildings located on the project site are vacant and the windows are boarded up. Photos of the project site are shown on the following page.



Photo 1 - One of two existing one-story buildings on the project site. The vacant building fronts East Rosemary Street on the east half of the site. The photo was taken from East Rosemary Street looking south.



Photo 2 - One of two existing two-story buildings on the project site. The vacant building fronts East Rosemary Street on the east half of the site. The photo was taken from East Rosemary Street looking south.

## PHOTOS 1 AND 2



Photo 3 - One of two existing one-story buildings on the project site. The vacant building fronts East Rosemary Street on the west half of the site. The photo was taken from East Rosemary Street looking southeast.



Photo 4 - One of two existing two-story buildings on the project site. The occupied building fronts North First Street on the west half of the site. The photo was taken from East Rosemary Street looking southwest.

## PHOTOS 3 AND 4



**4.1.1.2 Surrounding Area**

The development surrounding the project site includes older one- and two-story commercial buildings to the west across North First Street, two-story hotels to the north across East Rosemary Street, a four-story senior housing building (formerly the Adlon Hotel) to the east of the project site, and Interstate 880 to the south (elevated approximately 15 feet above-grade with fill).

**4.1.1.3 Scenic Vistas**

The project site is not located within a scenic viewshed or visible from a state designated scenic highway (Interstate 880 is not a designated scenic highway). Existing development limits views of the east foothills from the project site.

**4.1.1.4 Light and Glare**

There are numerous existing sources of light and glare on the project site and surrounding area, including street lights, security lights, parking lot lights, car headlights, and reflective surfaces such as window panes.

**4.1.2 Environmental Checklist and Discussion of Impacts**

AESTHETICS						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Increase the amount of shading on private or public open space (e.g., backyards, parks, plazas, and/or school yards)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

#### 4.1.2.1 *Change in Visual Character*

The project proposes to demolish and remove the four existing buildings and associated parking lots and landscaping on the site and to construct up to 106 senior and 184 family housing units. The certified 2005 NSJ FPEIR analyzed the visual impacts associated with the development of high-density residential on the site and other locations in north San José. As discussed in the 2005 NSJ FPEIR, the proposed high-density residential uses would result in development of greater building mass and density than the existing uses on the project site, with fewer trees and landscaping. The 2005 NSJ FPEIR concluded that future development in conformance with the City's *Residential Design Guidelines* would avoid significant visual and aesthetic impacts, including the following:

- *Chapter 5 – Perimeter Setbacks:* Residential structures of three stories or more are to be set back a minimum of 15 feet from incompatible uses. Residential structures of three stories or more are to be setback a minimum of 25 feet from public open space.
- *Chapter 9 – Landscaped Areas:* Landscaping should be provided in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The landscaping should be generous and should include trees and/or shrubs as well as groundcover. Tall shrubs or vines should be planted to help screen walls and fences and provide protection from graffiti.
- *Chapter 11 – Building Design:* This chapter specifies minimum facade articulation, vertical and horizontal roof articulation, the quality of building materials and details, stylistic consistency, and the need for care and attention to detail in design of street facades.
- *Chapter 14 - Solar Access:* Within a project, buildings should not be located in positions that will result in substantial shading of the private open space of adjacent units in the project.

The proposed project is not located adjacent to incompatible uses or public open space. Therefore, *Chapter 5 – Perimeter Setbacks* is not applicable to the project. Prior to issuance of Planned Development Permits, the proposed landscape plan and building design plans will be submitted to the City for review and approval to ensure project conformance with *Chapter 9 – Landscaped Areas* and *Chapter 11 – Building Design* of the Residential Design Guidelines. As shown on Figure 3-1, the open space areas proposed by the project are oriented facing south with unobstructed exposure to the sun, which conforms to *Chapter 14 – Solar Access* of the Residential Design Guidelines.

As discussed above, the proposed project would be consistent with the uses envisioned on the site by the 2005 NSJ FPEIR and would conform to the applicable Residential Design Guidelines identified in the certified 2005 NSJ FPEIR to avoid significant visual and aesthetic impacts. For these reasons, the proposed project would not result in any new or more significant visual or aesthetic impacts than were described in the certified 2005 NSJ FPEIR.

#### 4.1.2.2 *Light and Glare Impacts*

As discussed in the certified 2005 NSJ FPEIR, because the proposed buildings would be greater in mass and density than the existing on-site buildings, light and glare in the project area would incrementally increase. The certified 2005 NSJ FPEIR concluded that significant light and glare impacts, including light spillover onto adjacent properties, would be reduced or avoided by compliance with the City's *Outdoor Lighting Policy (Policy 4-3)*.

Prior to issuance of Planned Development Permits, the proposed lighting plan will be submitted to the City for review and approval to ensure project conformance with the City's *Outdoor Lighting*

Policy (4-3), which includes the use of low-pressure sodium outdoor security lighting on-site, along walkways, entrance areas, common outdoor use areas, and parking areas.

The proposed project would not result in any new or more significant light and glare impacts than were described in the certified 2005 NSJ FPEIR.

#### **4.1.2.3        *Impacts to Scenic Vistas***

The certified 2005 NSJ FPEIR concluded that the amount of development proposed would reduce the availability of views of the foothills. The views of the foothills from streets and existing buildings in the project vicinity may be reduced as a result of the proposed taller buildings on-site; however, the views from the new, proposed development would provide improved views of the foothills in comparison to the views provided by the existing buildings on-site.

The proposed project would contribute to the identified impacts to scenic vistas in the certified 2005 NSJ FPEIR. The proposed project will not result in any new or more significant impacts to scenic vistas than those described in the certified 2005 NSJ FPEIR.

#### **4.1.2.4        *Shade and Shadow Impacts***

As discussed in the certified 2005 NSJ FPEIR, the City of San José typically identifies significant shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on private or public open spaces. No private or public open spaces would be shaded by the project. Maximum shading occurs on December 21, the winter solstice, when the sun is at the lowest angle above the horizon. Figure 4-1 shows the project's shadows during the winter solstice. Generally, during the winter morning hours, shadows from the proposed project would fall in a northwesterly direction, shading the project itself, East Rosemary Street, the parking lot and hotel building across East Rosemary Street and North First Street. During the winter midday hours, the project shadows would be shorter and would fall in a northerly direction, shading the parking lot adjacent to the eastern boundary of the site and East Rosemary Street. Winter afternoon shadows from the project would fall in a northeasterly direction, shading the project itself, the parking lot and senior housing building adjacent to the east boundary of the site and East Rosemary Street. The senior housing building adjacent to the site does not include any outdoor open space areas.

As described above, the proposed project would not reduce natural sunlight on private or public open spaces. The project design would not introduce any inconsistencies with City policies about sun and shade and would not result in any new or more significant shade and shadow impacts than those that were described in the certified 2005 NSJ FPEIR.

#### **4.1.2.5        *Solar Access***

The City's *Residential Design Guidelines* contain guidelines for the orientation of buildings to gain optimum solar access. The guidelines include constructing the long axis of a building along the east-west axis, which orients the broad face of the building south and maximizes the incidence of south facing windows (*Residential Design Guidelines*, Chapter 14, Guidelines A.2). The proposed buildings are oriented along the east-west axis. Therefore, the project is consistent with the analysis in the 2005 NSJ FPEIR.



SHADE/SHADOW ANALYSIS - WINTER SOLSTICE

FIGURE 4-1

**4.1.3            Conclusion**

The proposed project would not result in any new or more significant visual or aesthetic impacts than those that were described in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.2 AGRICULTURAL RESOURCES**

**4.2.1 Setting**

While north San José was cultivated with a variety of crops for over a hundred years, including orchards, field crops, and greenhouse-grown flowers, very little agriculture remains. The project site is developed with urban uses and is not the subject of a Williamson Act contract. All of the land in the project area, including the project site, is designated *Urban and Built-up Land* on the Santa Clara County Important Farmlands Map 2006.

**4.2.2 Environmental Checklist and Discussion of Impacts**

AGRICULTURAL RESOURCES							
	Potentially Significant Impact	New Than Significant With Mitigation Incorporated	New Than Significant Impact	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:							
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 non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,4
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The project site is developed with urban uses and is not the subject of a Williamson Act contract. All of the land in the project area, including the project site, is designated *Urban and Built-up Land*.

**4.2.3 Conclusion**

The proposed project would not impact agricultural resources and, therefore, is consistent with the analysis in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.3 AIR QUALITY**

**4.3.1 Setting**

**4.3.1.1 *Background Information***

The ambient and regulatory requirements regarding air quality have basically remained unchanged since the approval of the 2005 NSJ FPEIR. The primary change is that the Bay Area Air Quality Management District (BAAQMD) adopted the *Bay Area 2005 Ozone Strategy* on January 4, 2006. The *Bay Area 2005 Ozone Strategy* updates vehicle miles traveled (VMT) and other assumptions in the 2000 CAP related to the reduction of ozone in the atmosphere and serves as the current CAP for the Bay Area. The *Bay Area 2005 Ozone Strategy* is based upon Projections 2002, prepared by the Association of Bay Area Governments (ABAG), which is based upon the City’s General Plan at that time and includes high-density residential uses on the project site.

**4.3.1.2 *Diesel Particulate Matter***

Particulate matter from diesel engine exhaust is a toxic air contaminant that can cause cancer. The project site is adjacent to Interstate 880 and, as a result, may be exposed to diesel particulate matter generated by truck traffic.

**4.3.1.3 *Sensitive Receptors***

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely and chronically ill) are likely to be located. These land uses included residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medical clinics. Sensitive receptors near the project site include the senior housing building east of the project site and the residences west of North First Steet (refer to Figure 2.0-3).

**4.3.2 Environmental Checklist and Discussion of Impacts**

AIR QUALITY							
	New Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	New Than Significant Impact	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:							
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,5
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5,6

AIR QUALITY						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,5
4) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,5,6
5) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

**4.3.2.1 Impacts from the Project**

**Regional Air Quality Impacts**

Vehicular trips generated by the proposed project would contribute to the significant regional air quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant regional or local air quality impacts than were described in the certified 2005 NSJ FPEIR.

**Impact AIR – 1:** Vehicular trips generated by the proposed project would contribute to the significant regional air quality impacts identified in the 2005 NSJ FPEIR. **(Significant Impact)**

**Mitigation Measure:** The following mitigation measure was identified as part of the certified 2005 NSJ FPEIR and is proposed by the current project:

**MM AIR – 1.1:** The project shall implement measures identified by BAAQMD to reduce long-term contributions to regional emissions, which may include, but are not limited to, the following:

- Providing bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas;
- Providing a satellite telecommute center within or near the development;



- Providing secure and conveniently placed bicycle parking and storage facilities at parks and other facilities;
- Allowing only natural gas fireplaces, pellet stoves, or EPA-Certified wood-burning fireplaces or stoves in residences. Conventional open-hearth fireplaces should not be permitted. EPA-Certified fireplaces and fireplace inserts are 75 percent effective in reducing emissions from this source;
- Using electric lawn and garden equipment for landscaping maintenance;
- Constructing transit amenities such as bus turnouts/bus bulbs, benches, and shelters;
- Providing direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development;
- Utilizing reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand; and
- Providing transit passes to new residents.

### **Construction-Related Impacts**

Construction activities would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying soils are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of PM<sub>10</sub> downwind of construction activity.

The development of the proposed project would contribute to the significant construction-related, short-term air quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant construction-related air quality impacts than were described in the certified 2005 NSJ FPEIR.

**Impact AIR – 2:** The development of the proposed project would contribute to the significant construction-related, short-term air quality impacts identified in the 2005 NSJ FPEIR. **(Significant Impact)**

**Mitigation Measures:** The following mitigation measures were identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

**MM AIR – 2.1:** Water all active construction areas at least twice daily.

- MM AIR – 2.2:** Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- MM AIR – 2.3:** Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- MM AIR – 2.4:** Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- MM AIR – 2.5:** Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- MM AIR – 2.6:** Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- MM AIR – 2.7:** Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- MM AIR – 2.8:** Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- MM AIR – 2.9:** Replant vegetation in disturbed areas as quickly as possible.

#### **4.3.2.2      *Impacts to the Project***

##### **Diesel Particulate Matter**

A diesel particulate matter air quality analysis was completed by *Illingworth & Rodkin* in October 2007. A copy of this report is included in Appendix A of this Addendum. The purpose of the analysis was to evaluate the health effects of long-term exposure to diesel particulate matter from Interstate 880 upon the future occupants of the proposed residences. The health impact from diesel particulate matter is expressed in terms of an increased risk of contracting cancer.

According to BAAQMD, an incremental risk of greater than 10 cases per million at the Maximally Exposed Individual for a 70-year exposure period is a significant impact. Dispersion modeling was completed to evaluate the incremental cancer risk resulting from residing at the proposed residences. Details regarding the modeling and assumptions used in the model are provided in Appendix A.

The modeling results show that the incremental cancer risk over the course of a 70-year lifetime exposure is 10.1 cases per million for the residence nearest Interstate 880. Because the BAAQMD threshold of significance is 10 in a million (i.e., not 10.0 in a million), rounding 10.1 down to 10 is appropriate and; therefore, the impact is less than significant.<sup>1</sup>

#### **4.3.3      Conclusion**

**Impact AIR – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant regional air quality

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<sup>1</sup> Greg Tholen, Senior Environmental Engineer, Planning Division, BAAQMD. Personal Communication. June 12, 2008.

impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**Impact AIR – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant construction-related air quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## **4.4 BIOLOGICAL RESOURCES**

### **4.4.1 Setting**

The project site is located in an urban environment. Except for the vacant lot on the east edge of the project site, the site is completely developed. Development on the site includes four commercial buildings (three of which are vacant/abandoned), surface parking lots, an outdoor picnic area, and landscaping (i.e., trees and shrubs). The vacant lot on the east edge of the site is approximately one-quarter of an acre in size and is overgrown with non-native grasses. There are no waterways on or adjacent to the project site. The nearest waterway to the project site is the Guadalupe River, which is located approximately one-half mile west of the site. Run-off from the project site enters the local storm drain system, which eventually empties into the Guadalupe River.

Due to the existing development on and adjacent to the project site, the species diversity at the site is low. Wildlife species expected to occur in the area are those adapted to human activity, including mourning doves, rock doves, raccoons, and opossums. Because of the proximity of the Guadalupe River, an increased variety of bird species are likely to forage on the property.

The project site is not located within an adopted Habitat Conservation Plan or other approved local, regional, or state habitat conservation plan.

#### **4.4.1.1 *Special-Status Plants and Animals***

Special-status plant and animal include species listed under state and federal Endangered Species Acts (including candidate species), animals designated as Species of Special Concern by the California Department of Fish and Game, and plants listed in the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California. As discussed in the 2005 NSJ FPEIR, most of the special-status plants and animals that have been reported in the general project area are primarily associated with freshwater marsh, salt marsh, aquatic, and serpentine habitats. These habitats are not present on the project site and, therefore, most special-status species known to occur in the region are not expected to occur on the project site.

#### **Pallid and Townsend's Big-eared Bat**

As discussed in the 2005 NSJ FPEIR, the attics, walls, and roofs of abandoned buildings in the Rincon area, such as three vacant/abandoned buildings on the project site, could provide roosting habitat for the pallid bat and/or Townsend's big-eared bat.

#### **Tree-nesting Raptors**

The mature trees on the project site could be used by raptors during the nesting season and the existing vacant lot on the project site provides suitable foraging habitat. A Red-tailed Hawk was observed perched adjacent to the site atop a light pole. Burrowing Owls are not expected to nest on the project. No Burrowing Owls or signs of Burrowing Owls were observed on the project site.

#### **4.4.1.2 *City of San José Tree Ordinance***

The City of San José Tree Ordinance defines an ordinance-size tree as any woody perennial plant characterized by having main stem or trunk which measures 18-inches or greater in diameter at a

height of 24-inches above natural grade slope. A multi-stem tree is considered a single tree and measurement of that tree includes the sum of the diameter of the tree trunks of that tree. A tree removal permit is required from the City for the removal of ordinance-sized trees.

A tree survey of the project site was completed by *John Steinbach III – Certified Arborist* in September 2007. There are a total of 101 existing trees on the project site, of which 23 are ordinance-size. Most of the ordinance-size trees on the site are privets and are poor candidates for preservation. The tree survey is included as Appendix B of this Addendum.

**4.4.1.4 City of San José Heritage Trees**

Under the City of San José Municipal Code, Section 13.28.330 and Section 13.32.090, specific trees are found, because of factors including, but not limited to, their history, girth, height, species or unique quality, to have a special significance to the community and are designated Heritage Trees. There are no heritage trees on the project site.

**4.4.2 Environmental Checklist and Discussion of Impacts**

BIOLOGICAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
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 Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,
3) Have a substantial adverse effect on 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

BIOLOGICAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
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, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,4,7
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

**4.4.2.2 Special-Status Plants and Animals**

Due to the lack of suitable habitat, most special-status plant and animal species are not expected to occur on-site, with the exception of the pallid bat and Townsend’s big-eared bat, tree nesting raptors and/or other migratory birds.

**Pallid Bat and Townsend’s Big-eared Bat**

The pallid bat and/or the Townsend’s big-eared bat could utilize the existing vacant/abandoned buildings for roosting. As identified in the certified 2005 NSJ FPEIR, if pallid bat and/or Townsend’s big-eared bat nursing colonies are present in the vacant/abandoned buildings on the site, development activities causing colony abandonment would be a significant impact. The loss of the habitat provided on-site for either species would be a minimal impact, because of the highly disturbed condition of the site. The proposed project would not result in any new or more significant impacts to the pallid bat and/or Townsend’s big-eared bat than were described in the certified 2005 NSJ FPEIR.

**Impact BIO – 1:** If a nursing pallid bat and/or Townsend’s big-eared bat colony is present in the vacant/abandoned buildings, development activities causing colony abandonment would be a significant impact. **(Significant Impact)**

**Mitigation Measure:** The following mitigation measure was identified as part of the certified 2005 NSJ FPEIR and is proposed by the project:

**MM BIO – 1:** Development activities during the pallid bat and Townsend’s big-eared bat nursery season (April to July) shall be preceded by predemolition surveys (within 30 days) for bat nursery colonies by a qualified bat biologist. Demolition of buildings outside of the nursery season need not be preceded by preconstruction surveys. No activities (including entering the attic) that would result in disturbance of active nurseries shall proceed prior to the completion of the surveys. The extent of construction-free zones around active bat nurseries shall be determined by the bat biologist. The California Department of Fish and Game shall be notified if any active nurseries are present on the project site.

### **Tree-Nesting Raptors**

As discussed above, the mature trees on the site provide nesting habitat for raptors and could be used by raptors during the nesting season. In addition, a Red-tailed Hawk was observed near the site. The loss of the reproductive effort for individual birds would be inconsistent with the Migratory Bird Treaty Act and a significant impact. Construction during the nesting season could disturb or destroy occupied nests, which would result in the loss of eggs or young birds. As identified in the certified 2005 NSJ FPEIR, the loss of the reproductive effort for individual birds is a significant impact. The proposed project would not result in any new or more significant impacts to raptors than were described in the certified 2005 NSJ FPEIR.

**Standard Measure:** The project proposes to implement the following standard measure to reduce impacts to nesting raptors:

- If possible, construction shall be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be completed no more than thirty (30) days prior to the initiation of these activities.

#### **4.4.2.2 Ordinance-Size Trees**

Redevelopment of the site could result in the removal of up to 101 trees from the project site, of which 23 are ordinance-size. Most of the existing trees on the site are poor candidates for preservation (i.e., 88 trees) and only two are good candidates for preservation. The project proposes to landscape the site with trees, shrubs, vines, and groundcover.

Redevelopment of the site would contribute to the significant impact to trees identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant impacts to trees than were described in the certified 2005 NSJ FPEIR.

**Impact BIO – 2:** The proposed project could result in the removal of up to 101 trees, including 23 ordinance-size trees. **(Significant Impact)**

**Mitigation Measures:** The project proposes to implement the following mitigation measures to reduce impacts to trees to a less than significant level:

**Tree Removal**

**MM BIO 2.1:** As shown on the landscaping plan that is submitted with any future PD Permit application, the proposed project shall replace trees removed at the following ratios:

<b>Table 4.0-1 City Standard Tree Replacement Requirements</b>			
<b>Diameter of Tree to be Removed</b>	<b>Native</b>	<b>Non-Native</b>	<b>Minimum Size of Each Replacement Tree</b>
19 inches or greater	5:1	4:1	24-inch box
12 – 18 inches	3:1	2:1	24-inch box
Less than 12 inches	1:1	1:1	15-gallon container
Notes: X:X = Tree replacement to tree loss ratio Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.			

**MM BIO – 2.2:** In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- An alternative site(s) shall be identified for additional tree planting. Alternative sites may include neighborhood streets, local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of \$300 per mitigation tree to *Our City Forest* for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a PD Permit.

**Tree Preservation**

To avoid potential damage to retained trees, the trees proposed for preservation shall be safeguarded during construction through the implementation of the following measures (Municipal Code 13.32.130, Ords. 21362,26595):



- MM BIO – 2.3:** Prior to approval of a PD permit, the applicant shall submit a site plan showing all trees to be preserved. The applicant shall also submit a tree preservation report that details how the existing trees will be preserved during and after construction, including but not limited to the measures below. The tree preservation report shall be completed to the satisfaction of the Environmental Principal Planner and the Director of Planning, Building, and Code Enforcement.
- MM BIO – 2.4:** Damage to any tree during construction shall be reported to the City’s Environmental Principal Planner, and the contractor or owner shall treat the tree for damage in the manner specified by the Environmental Principal Planner.
- MM BIO – 2.5:** No construction equipment, vehicles, or materials shall be stored, parked, or standing within the tree dripline.
- MM BIO – 2.6:** Drains shall be installed according to City specifications so as to avoid harm to trees due to excess watering.
- MM BIO – 2.7:** Wires, signs, and other similar items shall not be attached to trees.
- MM BIO – 2.8:** Cutting and filling around the base of trees shall be done only after consultation with the City arborist and then only to the extent authorized by the City arborist.
- MM BIO – 2.9:** No paint thinner, paint, plaster, or other liquid or solid excess or waste construction materials or wastewater shall be dumped at any time.
- MM BIO – 2.10:** Barricades shall be constructed around the trunks of trees as specified by a qualified arborist so as to prevent injury to trees making them susceptible to disease causing organisms.
- MM BIO – 3.11:** Whenever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.

#### **4.4.3**            **Conclusion**

- Impact BIO – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant impacts to pallid bat and Townsend’s big-eared bat than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**
- Impact BIO – 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant impacts to trees than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## **4.5 CULTURAL RESOURCES**

An archaeological evaluation report was completed for the project site by *Basin Research Associates* in October 2007. The purpose of the report was to identify cultural properties including prehistoric and historic archaeological sites, historic features and standing structures which may be eligible for inclusion on the California Register of Historical Resources (CRHR) on or adjacent to the site.

In addition, a historical and architectural evaluation was completed by *Archives & Architecture* for the structure located on the project site at 1290 North First Street to determine if the structure is eligible for the City of San Jose Historic Resources Inventory or the CRHR.

A copy of the archaeological evaluation report is on file with the City of San José Planning Division located at 200 East Santa Clara Street, 3<sup>rd</sup> Floor, Tower 3, San José, California 95113 and can be viewed during normal business hours. The historical and architectural evaluation is included as Appendix C of this Addendum.

### **4.5.1 Setting**

#### **4.5.1.1 *Prehistoric and Historic Site Record and Literature Search***

A prehistoric and historic site record and literature search was completed by the California Historical Resources Information System, Northwest Information Center, Sonoma State University, Rohnert Park (CHRIS/NWIC File No. 07-0305 dated September 19, 2007). Reference material from the Bancroft Library, University of California, Berkeley, and other reference materials and inventories were consulted. Fifteen cultural resource compliance reports on file with the CHRIS/NWIC include records, searches, surveys, and/or archaeological monitoring of the project site and/or adjacent areas. No prehistoric and/or historic era sites have been recorded or reported on or adjacent to the project site.

#### **4.5.1.2 *Limited Project Specific Historic Map Review***

Historic maps dating back to 1866 were reviewed. Prior to 1899, the site appears to have included the entryway and orchard of the 1876 Coleman Younger farmstead. A structure appears to have been present on the project site prior to 1939, but was removed by 1953. The four existing buildings on the project site were constructed between 1961 and 1973.

#### **4.5.1.3 *Field Survey***

The consulting archaeologist completed a limited field review on September 13, 2007. The few exposed areas with soil present were reviewed. The subsurface sediments within the site appear to have been heavily disturbed and/or removed by the construction of the four existing buildings. No evidence of significant prehistoric or historically significant archaeological or architectural resources was observed during the field review.

#### **4.5.1.4 *Architectural and Historical Evaluation***

The historical and architectural evaluation was completed for the structure located on the project site at 1290 North First Street determined that the building does not qualify for the City of San Jose Historic Resources Inventory or the California Register of Historical Resources because it lacks any

significant associations with significant personages or events, and the pattern of development along the North First Street commercial corridor lacks visual continuity that would create a setting of historical character.

**4.5.2 Environmental Checklist and Discussion of Impacts**

CULTURAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	8
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	8
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	8
4) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	8

**4.5.2.1 Archaeological Resources**

Construction of the proposed project would require trenching for utilities, excavation for the podium garage, and grading. Due to the absence of recorded archaeological resources on or near the project site, redevelopment of the site is not anticipated to impact archaeological resources. The potential remains, however, that unknown prehistoric and/or historic archaeological resources could be disturbed during redevelopment of the site. The proposed project would not result in any new or more significant impacts to archaeological resources than were described in the certified 2005 NSJ FPEIR.

**Standard Measures:** The project proposes to implement the following standard measures to reduce impacts to archaeological resources to a less than significant level:

- If any significant cultural resources are exposed or discovered during preparation or subsurface construction activities, operations shall be stopped within a radius of 50 feet of the find. The Director of Planning, Building, and Code Enforcement shall be notified and a qualified professional archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

- Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American.
- If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location no subject to further subsurface disturbance.
- If the Director of Planning, Building, and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.
- A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

#### **4.5.2.2**            *Historic Resources*

The existing buildings on the project site were constructed between 1961 and 1973 and represent typical commercial buildings built during those years. The existing on-site buildings and property are not historically significant. Demolition of the existing structures and development of the proposed project would have no impact on known historic resources.

#### **4.5.3**            Conclusion

The proposed project, with the implementation of the above standard measures, would not result in any new or more significant impacts to cultural resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## **4.6 GEOLOGY AND SOILS**

### **4.6.1 Setting**

#### **4.6.1.1 *Geological Features***

The project area is located in the Santa Clara Valley, between the base of the western foothills of the Hamilton-Diablo Mountain Range and the northeasterly foothills of the Santa Cruz Mountains, in the Coast Range Geomorphic Province of Central California. Bedrock underlying the area is part of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of the Upper Jurassic to Cretaceous age (70 to 140 million years old). These rocks are part of a northwesterly-trending belt of material that lies along the east side of the San Andreas Fault system, which is located approximately 12 miles southwest of the area. The Franciscan Complex is overlain by alluvium deposits of Holocene age (less than two million years old). This alluvium is comprised primarily of clay, silt, sand, and gravel. Below surface soils, older alluvial soils, extend to depths of greater than 950 feet.

#### **4.6.1.2 *Topography, Soil, and Groundwater***

The project site is located on the valley floor at an elevation of approximately 59 feet above mean sea level. The natural topography of the site is relatively flat. Due to the flatness of the site, the potential for landslides and erosion is low. The project site is not located within a landslide hazard zone. The project site is underlain by three different soil types: Campbell silty clay loam (Ca), Campbell silty clay (Cb), and Willows clay, slightly alkali (Wb). In general, groundwater in the project area fluctuates between eight and 15 feet below the ground surface.

#### **4.6.1.3 *Seismicity***

The project site is located within the seismically active San Francisco Bay region. The Uniform Building Code designates the entire South Bay area as Seismic Activity Zone 4, the most seismically active zone in the United States. There are no known active earthquake faults or fault traces crossing the site. The most significant seismic hazard affecting the site will be shaking caused by an earthquake on one of the major faults in the region (e.g., San Andreas, Hayward, and Calaveras). Due to its location in the South Bay Area, strong ground shaking can be expected during the life of the project. The site is not located in a fault rupture hazard zone. Therefore, primary ground rupture on the site is unlikely.

#### **4.6.1.4 *Liquefaction***

Liquefaction is a seismic hazard in which soils are temporarily transformed into a liquid state during the stress of an earthquake. Soils most susceptible to liquefaction are clean, loose, saturated, and uniformly graded, fine grained sands. The project site is located within a liquefaction hazard zone.

#### **4.6.1.5 *Lateral Spreading***

Lateral spreading is the horizontal displacement of soil during a seismic event towards an open face such as a body of water, channel, or excavation. There are no open faces near the project site. The nearest open face is the Guadalupe River, which is located approximately one-half mile west of the

project site. For this reason, the probability of lateral spreading occurring on the project site during a seismic event is considered to be low.

**4.6.2 Environmental Checklist and Discussion of Impacts**

GEOLOGY AND SOILS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,17
b) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,17
c) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,17
d) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,17
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,16
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,17
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,16
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

#### 4.6.2.1 *On-Site Soils*

Due to the clay content, the on-site soil has moderate to high shrink/swell potential. The shrinking and swelling of the soil is caused by manmade and seasonal soil moisture fluctuations and could damage site improvements, if they are not constructed properly. Due to the flat topography of the project site, the proposed project would not be exposed to slope instability, erosion, or landslide-related hazards.

The proposed project would not result in any new or more significant soil related impacts than were described in the certified 2005 NSJ FPEIR.

**Impact GEO – 1:** Expansive on-site soil could damage site improvements. **(Significant Impact)**

**Mitigation Measures:** The project proposes to implement the following mitigation measures to reduce geologic hazard impacts:

**MM GEO – 1.1:** Design and construct buildings in accordance with the design-level geotechnical investigation prepared for the project site, which identifies the specific design features that will be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.

**MM GEO – 1.2:** Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

#### 4.6.2.2 *Seismicity and Seismic Hazards*

The project site is located in a seismically active region, and therefore, strong ground shaking would be expected during the lifetime of the proposed project. Ground shaking could damage buildings and other proposed structures, and threaten the welfare of future residents. In addition, the project site is located in a liquefaction hazard zone.

The proposed project would not result in any new or more significant seismic related hazard impacts than were described in the certified 2005 NSJ FPEIR.

**Impact GEO – 2:** The project is subject to seismic and seismic-related hazards. **(Significant Impact)**

**Standard Measure:** The following standard measure was identified as part of the certified 2005 NSJ FPEIR to be required of future residential development in north San José and is proposed by the project:

**MM GEO 2.1:** The project shall be designed and constructed in conformance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

**4.6.3**            **Conclusion**

**Impact GEO – 1:**            The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant geologic impacts from expansive soils on-site than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**Impact GEO – 2:**            The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant geological impacts relating to seismic and seismic-related hazards than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**



## **4.7 HAZARDS AND HAZARDOUS MATERIALS**

The following discussion is based upon an environmental site assessment completed by *Versar* in May 2006 and a soil quality evaluation completed by *ES Geotechnologies* in December 2007. The purpose of these reports was to identify recognized environmental conditions on the project site related to current and historic use of hazardous substances. Copies of these reports are included as Appendix D and E to this Addendum.

In addition, a vicinity hazardous materials users survey, including a screening level chemical risk appraisal of selected hazardous materials inventories, was completed by *Belinda Blackie, P.E., R.E.A.* in October 2007. The purpose of this survey was to identify facilities in the vicinity that could impact the project site if an accidental hazardous materials release were to occur. Copies of these reports are included as Appendix F and G of this Addendum.

### **4.7.1 Setting**

#### **4.7.1.1 *Background Information***

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because, by definition, exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

Due to the fact that these substances have properties that are toxic to humans and/or the ecosystem, there are multiple regulatory programs in place that are designed to minimize the chance for unintended releases and/or exposures to occur. Other programs set remediation requirements at sites where contamination has occurred.

#### **4.7.1.2 *Site History***

Based on aerial photographs and topographic maps, the project site was used for agricultural production until the 1960s, at which time, the site was developed with the four existing buildings on the project site.

#### **4.7.1.3 *On-site Sources of Contamination***

##### **Historic Agricultural Production**

Due to the historic use of the project site for agricultural production, soil samples from the site were tested for organochlorine pesticides, lead, and arsenic. The test results were compared to the residential Environmental Screening Levels (ESLs) and California Human Health Screening Levels (CHHSLs) published by the San Francisco Bay Regional Water Quality Control Board (RWQCB) and the California Environmental Protection Agency (CalEPA), respectively. The ESLs and CHHSLs were developed to protect human health and are considered conservative.

Organochlorine pesticide and lead levels detected in the samples were below their respective ESLs and CHHSLs. Arsenic levels were above the CHHSL and slightly above the ESL, but approximately equal to the naturally-occurring background level in the southern San Francisco Bay Area.

### **Building Materials**

Based on the construction date of the existing on-site buildings (i.e., 1960s), asbestos containing materials (ACMs), lead-based paint, and fluorescent light ballasts containing polychlorinated biphenyls (PCBs) may be present. Asbestos was commonly used in building materials until 1981 and the use of lead in paint and PCBs in ballasts was not regulated until 1978.

#### **4.7.1.4 Off-site Sources of Contamination**

### **Groundwater Contamination**

Several surrounding facilities within 0.25-mile were identified in federal, state, and local databases. Seven facilities are identified as having releases from gasoline underground storage tanks (UST). Four facilities are listed as “case closed” for the UST releases. The remaining facilities have ongoing groundwater remediation and monitoring programs. These facilities are located either down- or cross-gradient from the site, or the groundwater plume is contained and not expected to migrate on-site.

### **Hazardous Material Use in the Project Vicinity**

Hazardous material use in the project vicinity was evaluated, due to the location of industrial uses in the vicinity. The first step of this evaluation included a survey to determine the types and quantities of hazardous materials that are used in the project vicinity. This included: 1) a visual survey of the businesses within approximately 0.5 miles of the project site, 2) identification of toxic gas facilities within a mile of the site, 3) consultation with the San José Fire Department, 4) chemical inventories of those facilities on file at the San José Fire Department, and 5) review of recent user surveys and risk assessments completed for nearby properties. Based on the information gained from the survey, a screening level chemical risk appraisal was completed to identify those chemical uses in the project vicinity that may have offsite consequences in the event of an accidental release or air emissions, and to provide a conservative assessment of possible impacts to the project site. The screening level chemical risk appraisal included modeling for the chemical use, storage, or air emissions at the following facilities:

- *Babbitt Bearing* – 375 cubic feet of acetylene, 4,688 cubic feet of liquid oxygen, and hexavalent chromium emissions.
- *Coat Engraving* – 15 gallons of nitric acid.
- *Safety Clean Systems* – 55 gallons of methyl chloride.
- *Peter Auto Body and Paint* – vinyl acetate and ethylene glycol monobutyl ether emissions.
- *Auto Tech Collision Center* – vinyl acetate and ethylene glycol monobutyl ether emissions.
- *All Auto* – vinyl acetate and ethylene glycol monobutyl ether emissions.

The results of the modeling indicate that worst-case releases and/or air emissions from the above facilities would not substantially affect people on the project site, except for an acetylene release from Babbitt Bearing. The worst-case modeling shows dispersion of such a release reaching the project site. Babbitt Bearing, however, is located to the southeast of the project site, across Interstate

880. The worst-case modeling scenario for the acetylene release does not take into account Interstate 880. Cars traveling on Interstate 880 between the Babbitt Bearing facility and the project site would likely dilute and/or disperse the acetylene vapor cloud. Interstate 880 is also elevated on fill and, as a result, is a substantial barrier between the site and Babbitt Bearing. For these reasons, an acetylene release from the Babbitt Bearing facility would not substantially affect people on the project site.

**4.7.2 Environmental Checklist and Discussion of Impacts**

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Create a significant hazard to human beings or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9,10,11, 12
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,11
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 for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2, 19
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

**4.7.2.1 Possible On-Site Sources of Impact**

**Historic Agricultural Use**

Organochlorine pesticide and lead levels detected in the samples were below their respective ESLs and CHHSLs. Arsenic levels were above the CHHSL and slightly above the ESL, but approximately equal to the naturally-occurring background level in the southern San Francisco Bay Area. For these reasons, pesticide application during historic agricultural use of the project site is not expected to affect the future occupants of the project or otherwise result in a significant hazardous material impact.

**Building Materials**

Based on the construction date of the existing on-site buildings (i.e., 1960s), asbestos containing materials (ACMs), lead-based paint, and fluorescent light ballasts containing polychlorinated biphenyls (PCBs) may be present. As identified in the certified 2005 NSJ FPEIR, construction workers, the public, and/or the environment could be exposed to these hazardous materials during construction of the proposed project, if they are present.

**Standard Measure:** The project includes the following standard measures to reduce impacts related to ACMs, lead-based paint, and PCB containing ballasts:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be completed prior to the demolition of the buildings to determine the presence of ACMs, lead-based paint and/or PCB containing ballasts.
- All PCB containing ballasts shall be removed and disposed of in accordance with state and local laws.

- All potentially friable asbestos-containing materials shall be removed in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to building demolition or renovation that may disturb the materials.
- All demolition activities will be undertaken in accordance with Cal/OSHA standards, contained in Title 8 of the California Code of Regulations (CCR), Section 1529, to protect workers from exposure to asbestos. Materials containing more than one percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1, including employees training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.

#### **4.7.2.2      *Possible Off-Site Sources of Impact***

##### **Hazardous Material Use in the Project Vicinity**

Approval of the project would allow for additional population within an industrial area. The project would incrementally increase the risk of exposure to hazardous materials in the event of a release from hazardous material users in the vicinity. Based on the setting section described above and the results of the hazardous material use survey and screening level chemical risk appraisal (refer to Appendices H and I), however, air emissions and/or an accidental release from existing hazardous material use in the project vicinity are not anticipated to substantially affect residents, employees, or visitors of the proposed project.

##### **Groundwater Contamination**

Based on information regarding the type of release, current case status, and distance and direction from the site, there are no reported hazardous materials spills or releases in the project area that could substantially affect the site (refer to Appendix D).

##### **San Jose International Airport**

San Jose International Airport is located approximately 2,800 feet west of the project site. There are no other public or private airports/airstrips within two miles of the project site. Airplanes fly into and out of the airport from the north and south. Therefore, planes traveling to and from San Jose International Airport do not fly over the project site and the project site is not located within a Safety Zone. Due to the site's proximity to the airport, building heights on the project site are limited to 206 feet, over 150 feet higher than the proposed building heights (i.e., approximately 50 feet). For these reasons, The project would not expose people to hazards from aircraft activity within the project area.

#### **4.7.2.3      *Other Hazard and Hazardous Material Concerns***

The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (Cortese List) or located within an area subject to wildfires. The project would not affect an emergency response plan or emergency evacuation plan. The project

does not propose any on-site use of hazardous materials other than those commonly used by residential uses.

**4.7.3            Conclusion**

The proposed project, with implementation of the above standard measures, would not result in any new or more significant hazardous material impacts than were previously identified in the certified 2005 NSJ FPEIR. **(No New Impact)**

Existing hazardous material use in the project vicinity would not substantially affect residents, employees, or visitors of the proposed project. **(New Less Than Significant Impact)**

## 4.8 HYDROLOGY AND WATER QUALITY

### 4.8.1 Setting

The existing drainage and regulatory requirements regarding hydrology and water quality are generally unchanged from the certified 2005 NSJ FPEIR. The primary changes are the update of the North San José Floodplain Management Study reflecting the completion of flood control projects for Coyote Creek and Lower Guadalupe River, the City's update of its *Post-Construction Urban Runoff Management* (Policy 6-29), and the City's adoption of the *Post-Construction Hydromodification Management* (Policy 8-14).

#### 4.8.1.1 *Flooding*

The project site is located within the North San José Floodplain Management Policy area. The North San José Floodplain Management Study was updated in June 2006. Existing flood conditions in north San José have been changed by completion of flood control projects for Coyote Creek and Lower Guadalupe River. The flood control projects have increased the stream channel flood capacity and reduced the potential for overflows from the stream channels into the north San José area. With the flood control projects, the flood potential has been reduced to residual shallow flooding, which is primarily due to storm drain excess flows exceeding the capacity of the storm drain systems during a 100-year storm.

Based on the Federal Emergency Management Agency's Flood Insurance Rate Map updated to reflect the Letter of Map Revision (LOMR)<sup>2</sup>, the project site is located in Zone X, which is defined as areas protected from the 100-year flood by levee, dike, or other structure subject to possible failure during larger floods.

Development constraints were developed as part of the North San José Floodplain Management Study to allow increased development density, protect new structures, and minimize potential increases in flood depths. The development constraints are consistent with the Federal Emergency Management Agency (FEMA) requirements and the City's floodplain management ordinance. The following is a summary of the development constraints applicable to the project site:

- South of Highway 101, finished floors for new development shall be at or above the estimated 100-year water surface elevations defined for the effective FEMA Flood Insurance Rate Maps (FIRMs).
- South of Highway 101, the allowable flood blockage should be 100 percent. Localized areas of sheetflow shown on the FEMA LOMR interior drainage study maps may be required to allow conveyance areas for sheetflow on a site by site basis.

#### 4.8.1.2 *Drainage*

South of Highway 101, there are several storm drain systems that drain the area between the Guadalupe River and Highway 101. These systems drain to the Guadalupe River and include

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<sup>2</sup> Federal Emergency Management Agency (FEMA). Flood Insurance Rate Map, Community Panel Number 060349 0019 E. Revised to reflect LOMR dated October 25, 2006.

flapgates at the outlet to the river. These systems generally have less than 10-year conveyance and are not expected to discharge by gravity when large flows occur in the river.

#### **4.8.1.3 Regulatory Requirements**

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

The City of San José's Policy No. 6-29 requires all new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs)<sup>3</sup> and Treatment Control Measures (TCMs)<sup>4</sup> to the maximum extent practicable. This Policy also establishes specific design standards for Post-Construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

##### **City of San José Post-Construction Hydromodification Management (Policy 8-14)**

In 2005, the City of San José adopted the Post-Construction Hydromodification Management (Policy 8-14) to manage development related increases in peak runoff flow, volume and duration, where such hydromodification<sup>5</sup> is likely to cause increased erosion, silt pollution generation, or other impacts to local rivers, streams, and creeks.

Policy 8-14 requires stormwater discharges from new and redevelopment projects that create or replace one acre (43,560 square feet) or more of impervious surfaces to be designed and built to control project-related hydromodification, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. The Policy establishes specified performance criteria for Post-Construction Hydromodification control measures (HCMs) and identifies projects which are exempt from HCM requirements. For example, projects are exempt that do not increase the impervious area of a site, as are projects that drain to exempt channels, projects that drain to stream channels within the tidally influenced area, or projects that drain to non-earthen stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area.

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<sup>3</sup> Post-Construction Best Management Practices (BMPs) are methods, activities, maintenance procedures, or other management practices designed to reduce the amount of stormwater pollutant loading from a site. Examples of Post-Construction BMPs include proper materials storage and housekeeping activities, public and employee education programs, and storm inlet maintenance and stenciling.

<sup>4</sup> Post-Construction Treatment Control Measures are site design measures, landscape characteristics or permanent stormwater pollution prevention devices installed and maintained as part of a new development or redevelopment project to reduce stormwater pollution loading from the site; are installed as part of a new development or redevelopment project; and are maintained in place after construction has been completed. Examples of runoff treatment control measures include filtration and infiltration devices (e.g., vegetative swales/biofilters, insert filters, and oil/water separators) or detention/retention measures (e.g., detention/retention ponds). Post-Construction TCMs are a category of BMPs.

<sup>5</sup> Hydromodification occurs when the total area of impervious surfaces increases resulting in the decrease of rainfall infiltration, which causes more water to run off the surface as overland flow at a faster rate. Storms that previously did not produce runoff from a property under previous conditions can produce erosive flows in creeks. The increase in the volume of runoff and the length of time that erosive flows occur intensifies sediment transport, increasing creek scouring and erosion and causing changes in stream shape and conditions, which can, in turn, impair the beneficial uses of the stream channels.



**4.8.2 Environmental Checklist and Discussion of Impacts**

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,18
10) Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

**4.8.2.1 Drainage**

The surface of the existing project site is approximately 93 percent (3.75 acres) impervious and approximately seven percent (0.30 acres) pervious (refer to Table 4.0-2).

The project proposes to demolish and remove the existing buildings and surface parking areas on-site and construct two new buildings with partially below-grade parking garages. With the development of the proposed project, the surface of the site would be approximately 78 percent (three acres) impervious and approximately 22 percent (0.90 acres) pervious. The proposed project, therefore, would decrease impervious surfaces by approximately 15 percent (0.60 acres) (refer to Table 4.0-2).

Site Surface	Existing/Pre-Construction (acres)	%	Project/Post-Construction (acres)	%	Difference (acres)	%
<b>Impervious</b>						
Building Footprint	0.68	17	2.68	66	2.0	50
Parking/Driveways/ Streets	3.07	76	0.49	12	-2.58	-64
<i>Subtotal</i>	<i>3.75</i>	<i>93</i>	<i>3.17</i>	<i>78</i>	<i>-0.58</i>	<i>-15</i>
<b>Pervious</b>						
Landscaping	0.29	7	0.87	22	0.58	15
<i>Subtotal</i>	<i>0.29</i>	<i>7</i>	<i>0.87</i>	<i>22</i>	<i>0.58</i>	<i>15</i>
<b>Total</b>	<b>4.04</b>	<b>100</b>	<b>4.04</b>	<b>100</b>		

Because the proposed project would decrease impervious surfaces, which would result in a decrease in surface runoff from the site, it is not anticipated that runoff from the proposed project would

exceed the capacity of the existing storm drain system. Therefore, the proposed project would not result in any new or more significant drainage impacts than were described in the certified 2005 NSJ FPEIR.

#### **4.8.2.2      *Flooding***

Based on the Federal Emergency Management Agency’s Flood Insurance Rate Map updated to reflect the Letter of Map Revision (LOMR)<sup>6</sup>, the project site is not located in a 100-year floodplain and is not subject to sheetflow. Therefore, the North San José Floodplain Management Study development constraints are not applicable to the project site.

Although not in the 100-year floodplain, flooding throughout the project area could occur if the adjacent Guadalupe River levee breaches as a result of earthquake induced soil liquefaction and lateral spreading under the levee. However, the potential for this to occur is remote and unlikely.

The proposed project would not result in any new or more significant flooding impacts than were described in the certified 2005 NSJ FPEIR.

#### **4.8.2.3      *Water Quality***

##### **Construction-Related Impacts**

Construction of the proposed project, as well as demolition, grading, and excavation activities, may result in temporary impacts to surface water quality. Demolition of the existing buildings and construction of the proposed project would also result in a disturbance to the underlying soils, thereby increasing the potential for sedimentation and erosion. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drain system.

The development of the proposed project would contribute to the significant construction-related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project would not, however, result in any new or more significant construction-related water quality impacts than were described in the certified 2005 NSJ FPEIR.

**Impact HYD – 1:**      The proposed project would result in short-term construction-related water quality impacts. **(Significant Impact)**

**Mitigation Measures:** The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

**MM HYD – 1.1:**      Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall be required to file a “Notice of Intent” (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of

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<sup>6</sup> Federal Emergency Management Agency (FEMA). Flood Insurance Rate Map, Community Panel Number 060349 0019 E. Revised to reflect LOMR dated October 25, 2006.

the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:

- Preclude non-stormwater discharges to the stormwater system.
- Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
- Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
- Perform monitoring of discharges to the stormwater system.

**MM HYD – 2.2:** Comply with the City’s Grading Ordinance.

### **Post-Construction Impacts**

Stormwater runoff from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. Runoff from the proposed project may contain increased oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers and pesticides) from landscaped areas.

The amount of pollution carried by runoff from the site would increase accordingly with increased intensity of use. The project would increase traffic and human activity on and around the project site, generating more pollutants and increasing dust, litter, and other contaminants that would be washed into the storm drain system. The project, therefore, would generate additional water contaminants that could be carried downstream in stormwater runoff from paved surfaces on the site.

The development of the proposed project would contribute to the significant post-construction related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant post-construction related water quality impacts than were described in the certified 2005 NSJ FPEIR.

**Impact HYD - 2:** The proposed project would result in post-construction water quality impacts. **(Significant Impact)**

**Mitigation Measure:** The following mitigation measure was identified as part of the certified 2005 NSJ FPEIR and is proposed by the project:

**MM HYD – 2.1:** Compliance with Council Policies 6-29 and 8-14 is required at the development permit stage and shall be demonstrated by incorporating BMPs and TCMs which include, but are not limited to, the following:

- Vegetated swales and flow-through areas;
- Bioretention areas or basins;
- Disconnected downspouts that are directed into landscape areas;
- Minimization of impervious surfaces and increased use of permeable pavement;

- Location of all storm drain inlets to be stenciled with, “No Dumping! Flows to Bay;” and
- Location and design of trash enclosures (all shall be covered) and materials handling areas.

#### **4.8.3 Conclusion**

**Impact HYD – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant construction-related impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**Impact HYD - 2:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant post-construction water quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

## **4.9 LAND USE**

### **4.9.1 Setting**

#### **4.9.1.1 *Existing Land Use***

The approximately four-acre project site is located in the southeast quadrant of the North First Street and East Rosemary Street intersection in north San José and is currently developed with four commercial buildings, surface parking lots, and associated landscaping. The existing commercial buildings range in size from approximately 6,500 to 24,500 square feet. Three of the four existing commercial buildings on the project site are vacant/abandoned.

#### **4.9.1.2 *Surrounding Land Uses***

The project site is bounded by North First Street to the west, East Rosemary Avenue to the north, a residential property to the east, and Interstate 880 to the south. Land uses in the project area include commercial uses to the west across North First Street, hotels to the north across East Rosemary Street, high density residential to the east, and light industrial uses to the south across Interstate 880 (refer to Figure 2-3). Interstate 880 is elevated on fill approximately 15 feet above-grade in the project area.

#### **4.9.1.3 Land Use Plans**

##### **General Plan Land Use Designation**

The project site's existing General Plan land use designation is *Transit Corridor Residential (25-65 DU/AC)*. This land use category is intended to expand the potential for residential development in proximity to major public transit particularly along the City's Transit-Oriented Development Corridors and Station Area Nodes. Development should be entirely residential or commercial uses on the first two floors with residential uses on remaining floors and generally exceed 45 DU/AC.

##### **Zoning Designation**

The project site's existing zoning designations are *Commercial Neighborhood, Commercial General, and Light Industrial*. These designations are described below.

##### ***Commercial Neighborhood (CN)***

The Commercial Neighborhood District is intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. Development types supported by this district include neighborhood centers, multi-tenant commercial development along major arterials, and small corner commercial establishments.

##### ***Commercial General (CG)***

The CG Commercial General District is intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls.

**Light Industrial (LI)**

The Light Industrial Zoning District is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Examples of typical uses are warehousing, wholesaling, and light manufacturing. Sites designated Light Industrial may also contain service establishments that serve only employees of businesses located in the industrial areas.

**North San José Area Development Policy**

The North San José Area Development Policy (hereinafter referred to as the Policy) provides for the development of up to 32,000 new residential dwelling units within north San José, including the potential conversion of up to 285 acres of existing industrial lands to residential use at minimum densities of either 55 du/ac (up to 200 acres) or 90 du/ac (up to 85 acres). A summary of the provisions of the Policy are listed in Table 4.0-3:

<b>Table 4.0-3</b>			
<b>Consistency with North San José Area Development Policy Residential Checklist</b>			
<b>Provisions of the Policy</b>	<b>Consistent?</b>		
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<b>Land Use</b>			
Residential development must occur on land within the Transit/Employment Residential Overlay, on land already designated for residential use in the General Plan, or in the Industrial Core area in a mixed-use configuration.	X		
Residential development within the Overlay must be at least 55 DU/AC.			X
Site must not contain an existing important vital or “driving” industrial use.	X		
Site must not be adjacent to an industrial use that would be significantly adversely impacted by the residential conversion.	X		
The site must not be in proximity to an industrial or hazardous use that would create hazardous conditions for the proposed residential development (e.g. an adequate buffer must be provided for new residential uses from existing industrial uses) in order to protect all occupants of the sites and enhance preservation of land use compatibility among sites within the Policy area. A risk assessment may be required to address compatibility issues for any proposed industrial to residential conversions.	X		
Site should be within 1,000 feet of existing park or would help establish or contribute to a new park of adequate size within 1,000 feet.		X	
Site design must support transit use and pedestrian safety.	X		
Master planning of sites for parks, schools, and other public facilities must be completed within each of the seven new residential areas prior to any proposed conversion within that area.			X
Project does not result in the conversion of industrial land not anticipated by the Policy.			X
<b>Traffic</b>			
Project includes design features that encourage bicycle and pedestrian movements.	X		
Project incorporates TDM measures (see Policy list for residential projects).	X		
Project includes dedication of public street right-of-way determined	X		

<b>Table 4.0-3</b>			
<b>Consistency with North San José Area Development Policy Residential Checklist</b>			
<b>Provisions of the Policy</b>	<b>Consistent?</b>		
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
necessary through or adjacent to the project site.			
<b>Infrastructure Improvements</b>			
Project includes extension, expansion, or improvement of utilities or other infrastructure needed to serve the project and its immediate area, including extension of recycled water line where possible.	X		
Project includes dual plumbing to allow use of recycled water for landscaping.	X		
<b>Allocation of Capacity</b>			
Sufficient capacity remains within the relevant Phase to allow development of the proposed units.	X		
<b>Design Criteria</b>			
Project is consistent with relevant policies in the Residential Design Guidelines.	X		
Project is consistent with Multi-modal Transportation Design Criteria in the ADP.	X		
Project incorporates Green Building techniques, resource conservation programs, and minimizes water use.	X		

**Rincon South Specific Plan**

The Rincon South Specific Plan (RSSP) was approved by the City of San Jose in November 1998. The RSSP is the City’s specific policy for governing development in the Rincon South Planned Community (RSPC). The primary purpose of the RSSP is to create a viable and unique transit and pedestrian oriented high-density residential neighborhood on the east side of North First Street. The project site is within the Kerley Neighborhood Sub-area of the RSSP. With the exception of hotel sites, all parcels within the Kerley Neighborhood Sub-area are considered good candidates for high-density residential use and are designated *Transit Corridor Residential (25-65 DU/AC)*, including the project site. Residential development under this designation is expected to be oriented to transit facilities and to encourage transit use. Buildings constructed under this designation should be urban in character with articulated façade development along all important street frontages. Height limits for development under this designation range from 25 to 85 feet. This designation is consistent with the urban form of the *Transit Corridor Residential* in the General Plan (see above). The circulation system for the RSSP shows Kerley Avenue extended onto the project site as a cul-de-sac.

**4.9.1.4 Other**

The project area is not part of a habitat conservation plan or natural community conservation plan.



**4.9.2 Environmental Checklist and Discussion of Impacts**

LAND USE							
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:							
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1,2,13
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1,2,4, 13,14
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1,13

The project proposes to rezone the project site from *Commercial Neighborhood, Commercial General, and Light Industrial* to *A(PD) – Planned Development* to allow for the demolition of the existing buildings and the development of up to 106 senior and 184 family housing units on the approximately four-acre site.

**4.9.2.1 Conformance with Land Use Plans**

**General Plan and Zoning**

The multi-family component of the project has a density of approximately 62 dwelling units per acre (184 units / 2.98 acres) and the senior component has a density of approximately 101 dwelling units per acre (106 units / 1.05 acres). The project has an overall net density of approximately 72 dwelling units per acre (290 units / 4.03 acres). This exceeds the maximum density allowed under the Transit Corridor Residential (25-65 DU/AC) General Plan land use designation. However, the General Plan Discretionary Alternate Use Policy titled “Population-Dwelling Unit Equivalency” states that a residential development, such as senior citizen housing, designed to have a maximum population, rather than a number of dwelling units, may be found consistent with a residential land use designation by using a “population-dwelling unit equivalency” calculation. At approximately 1.27 residents per senior household the 106 senior units are equivalent to 42 conventional dwelling units. Adding the 42 conventional unit equivalents to the 184 family housing units results in a total of 226 units, or a net density of approximately 56 dwelling units per acre (226 units / 4.03 acres), which is allowed under the site’s existing Transit Corridor Residential (25-65 DU/AC) General Plan land use designation.

Because the project proposes to rezone the project site from *Commercial Neighborhood, Commercial General, and Light Industrial* to *A(PD) – Planned Development* to allow for development of the proposed development, the project is not consistent with the site’s existing zoning.

### North San José Area Development Policy

#### Land Use

The proposed project is consistent with the land use provisions in the Policy because the project: 1) proposes residential development on land designated in the General Plan for residential development, 2) proposes residential development in proximity to public transit, 3) would not impact a vital or “driving” industrial use, 4) would not expose residents to significant hazards from nearby industrial facilities (refer to **Section 4.7 Hazards and Hazardous Materials**), and 5) proposes to comply with the City’s *Parkland Dedication Ordinance* and/or *Parkland Impact Ordinance* (refer to **Sections 4.13 Public Services** and **4.14 Recreation**).

#### Traffic

As described in **Section 4.15 Transportation**, the proposed project would not result in new significant traffic impacts beyond those identified in the certified 2005 NSJ FPEIR. The project proposes to include design features that encourage bicycle and pedestrian movements (refer to **Section 4.3 Air Quality**). The sidewalks throughout the project site will be 12 feet wide, landscaped, set back 10 feet from proposed residential units, and include on-street parking to buffer pedestrians from vehicular traffic. These sidewalk design elements are proposed to facilitate pedestrian movements. Existing crosswalks provide direct pedestrian access to the project site and the existing Gish Light Rail Transit Station. In addition, bicycle parking is proposed in the parking garage for the family housing units. The project proposes to dedicate public street ROW for sidewalk improvements on North First Street and East Rosemary Street. For these reasons, the proposed project is consistent with the traffic provisions of the Policy.

#### Infrastructure Improvements

The proposed project is consistent with the Policy’s provisions for infrastructure improvements. As discussed in **Section 4.16 Utilities and Service Systems**, the project would connect to existing utility lines in nearby streets and upgrade them if needed. In addition, the project proposes installation of dual plumbing for the use of recycled water for landscaping.

#### Allocation of Capacity

The NSJ Policy provides for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, and 32,000 new dwelling units in the Rincon area. Phase I of NSJ allows for the development of up to 8,000 residences. The allocation of unit capacity occurs with approval of a PD Permit. Since the approval and certification of the NSJ FPEIR in June 2005, 12 rezonings have been approved for a total of 7,383 units on 129.21 gross acres.<sup>7</sup> PD Permits and/or a Development Agreement have been approved for ten of these residential projects (file numbers PDC05-099, PDC06-022, , PDC06-038, PDC06-061, PDC06-085, PDC06-093, PDC06-130, PDC07-054,

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<sup>7</sup> PDC06-067 (Cadence/Essex) is pending City Council decision on June 17, 2008 for 777 units on 14.5 gross acres.

PDC07-055 and PDC07-057), which allow for the development of up to 6,562 residential units on 123.95 gross acres. The project proposes up to 290 residences. Sufficient capacity remains to allow for the development of the proposed project.

### Design Criteria

As discussed below and in **Section 4.1 Aesthetics**, the proposed project is consistent with the City's *Residential Design Guidelines*. Project design would be reviewed by the City during the Planned Development (PD) Permit stage. Landscaping would be provided in all setback areas, including between project walls and/or fences and the rights-of-way of public streets and sidewalks. The project would be designed to include facade articulation, vertical and horizontal roof articulation, quality building materials, and stylistic consistency, with special consideration to detail in design of street facades.

The project is consistent with the Policy's Multi-modal Transportation Design Criteria. The project site is located within walking distance of the Gish Light Rail Transit Station, has existing pedestrian connections to the station, and would include TDM measures to encourage pedestrian and bicycle movement (refer to **Section 4.3 Air Quality**).

The project would be designed and constructed in conformance with the energy conservation standards in Title 24 of the state's building code. As shown on Figure 3-1, the open space areas proposed by the project are oriented facing south with unobstructed exposure to the sun. The project proposes dual plumbing for the use of recycled water for landscaping.

Based on the above discussion, the proposed project is consistent with the North San José Area Development Policy. Refer to Table 4.0-3 for a summary of the project's consistency with the Policy's provisions.

## **Rincon South Specific Plan**

The proposed project is generally consistent with the Rincon South Specific Plan (RSSP). With the site's existing pedestrian connections to the Gish station and the TDM measures proposed by the project to encourage pedestrian and bicycle movement (refer to **Section 4.3 Air Quality**), the project would be oriented to transit facilities and encourage transit use. The project exceeds the RSSP's 45 dwelling unit per acre goal for residential development on parcels designated *Transit Corridor Residential (25-65 DU/AC)*. As specified in the RSSP, the maximum proposed building heights (i.e., approximately 50 feet) is within the height limit range of 25 to 85 feet and the project will be designed to include articulated facades and other design features to promote a pedestrian friendly environment. Although the project does not extend Kerley Street onto the project site, a main site entrance is proposed at this location, which provides a similar affect. For these reasons, the project is consistent with the Rincon South Specific Plan.

### **4.9.2.2 Land Use Compatibility**

Land use conflicts can arise from two basic causes: 1) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project, or 2) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere. Both of these circumstances are aspects of land use compatibility.

Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project’s design or scope.

### **Interface with Existing Uses**

As discussed in the certified 2005 NSJ FPEIR, developing residential uses near existing industrial uses could result in land use compatibility issues. The proposed project is buffered from the existing uses in the project area. North First Street buffers the site from the existing commercial uses west of the site, East Rosemary Street buffers the site from the commercial uses north of the site, and Interstate 880 buffers the site from the light industrial uses south of the site. The high density residential use that is located adjacent to the east boundary of the site is compatible with the proposed project. The buildings proposed by the project would be setback 25 feet from the property line adjacent to the existing residential use. The surrounding roadways combined with the proposed setbacks and building and site design, provide sufficient buffer between the project site and the surrounding land uses.

**Avoidance Measure:** The following measure was identified as part of the certified 2005 NSJ FPEIR to be required of future residential development in north San José and is proposed by the project to further reduce land use compatibility impacts:

- *Residential Design Guidelines, Chapter 9 – Landscaped Areas:* Landscaping should be provided in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The landscaping should be generous and should include trees and/or shrubs as well as groundcover. Tall shrubs or vines should be planted to help screen walls and fences and provide protection from graffiti.
- *Residential Design Guidelines, Chapter 11 – Building Design:* This chapter specifies minimum facade articulation, vertical and horizontal roof articulation, the quality of building materials and details, stylistic consistency, and the need for care and attention to detail in design of street facades.

It was concluded in the certified 2005 NSJ FPEIR that development of residential uses, in conformance with the City’s *Residential Design Guidelines*, would limit the likelihood that significant land use compatibility impacts between new residents and surrounding land uses would arise (see also **Section 4.7 Hazards and Hazardous Materials**). The proposed project would not result in any new or more significant land use compatibility impacts than were described in the certified 2005 NSJ FPEIR.

#### **4.9.3 Conclusion**

The proposed project would not result in any new or more significant land use compatibility impacts than were described in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.10 MINERAL RESOURCES**

**4.10.1 Setting**

The project site is not located within any designated mineral deposit area of regional significance. Mineral exploration is not performed on the project site and the site does not contain any known or designated mineral resources.

**4.10.2 Environmental Checklist and Discussion of Impacts**

MINERAL RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,13

As discussed above, the project is not located within a designated area containing mineral deposits of regional significance and, therefore, would not result in the loss of availability of a known mineral resource, and no mineral excavation sites are present within the general area. The proposed project would not result in impacts to mineral resources.

The proposed project would not result in any new or more significant impacts to mineral resources than were described in the certified 2005 NSJ FPEIR.

**4.10.3 Conclusion**

The project would not result in any new or more significant impacts to mineral resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.11 NOISE**

The following discussion is based upon a noise assessment study completed for the project by *Illingworth & Rodkin* in November 2007. A copy of this report is included as Appendix H to this Addendum.

**4.11.1 Setting**

The ambient noise conditions and regulatory requirements regarding noise have not changed since the certification of the 2005 NSJ FPEIR.

**4.11.1.1 *Existing Noise Conditions***

The project site is located in the southeast quadrant of the North First Street and East Rosemary Street intersection, adjacent to Interstate 880. The area surrounding the project site is developed with commercial and residential land uses. The ambient noise environment was quantified through a series of noise measurements made at representative locations at the project site. The site is exposed to a day-night average noise level of up to 71 dBA DNL. The noise environment at the project site primarily results from vehicles traveling on Interstate 880 and North First Street, VTA light rail trains, and aircraft.

**4.11.1.2 *Existing Vibration Environment***

Light Rail Transit (LRT) currently operates on North First Street. The nearest residential units would be located approximately 55 feet from the center of the northbound track and 70 feet from the center of the southbound track. Vibration measurements completed adjacent to the North First Street light rail line indicate that vibration generated by light rail trains would range from 60 to 64 VdB at the nearest proposed receivers.

**4.11.2 Environmental Checklist and Discussion of Impacts**

NOISE						
	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same as “Approved Project”	Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project result in:						
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	15
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	15
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	15

NOISE						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project result in:						
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,15
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 expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	15
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,15

The following criteria were used to evaluate the significance of noise impacts:

- Noise levels at common exterior use areas exceed 60 dBA DNL (San José General Plan).
- Interior noise levels exceed 45 dBA DNL (San José General Plan, State Building Code).
- Vibration levels exceed 72 VdB (FTA Guidelines).
- The operation of the project increases traffic noise levels by three dBA DNL or more at sensitive receivers (historical precedence based on community annoyance studies).
- The construction of the project generates noise levels exceeding 60 dBA Leq and the ambient noise environment by five dBA Leq or more for a period greater than one year (historical precedence based on community annoyance studies).
- Noise levels from aircraft exceed 65 dBA CNEL at the project site.

**4.11.2.1 Noise Impacts from the Project**

**Short-Term Construction Impacts**

Construction noise impacts primarily occur when construction activities occur during noise-sensitive times of the day (early morning, evening, or nighttime hours), in areas immediately adjoining noise sensitive land uses, or when construction occurs over extended periods of time.

The project would be constructed in phases over an approximate 18- to 20-month period. The construction of each podium would be phased one after the other. Proposed activities would include the demolition of existing commercial and industrial buildings, site preparation, construction of project infrastructure, construction of building cores and shells, building finishing, and landscaping. Construction-related noise levels are normally highest during the demolition phase and during the construction of project infrastructure. These phases of construction require heavy equipment that normally generates the highest noise levels over extended periods of time. Typical hourly average construction-generated noise levels are about 81 to 88 dBA Leq measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction-related noise levels are normally less during building framing, finishing, and landscaping phases when less heavy equipment is present on site. Construction noise levels would vary on a day-to-day basis depending on the actual activities occurring at the site.

Construction-generated noise levels drop off at a rate of about six dBA per doubling of distance between the noise source and receptor. Barriers or buildings that interrupt the sound path between the source and receivers would provide an additional five to 10 decibels of attenuation. The nearest existing residential receivers are located approximately 50 feet east of the site. Two hotels are located to the north at distances of approximately 100 and 250 feet, respectively. Construction noise levels would be highest at the nearest existing residential receivers when construction occurs on the northernmost or easternmost portions of the site. Hourly average noise levels generated by project construction activities would range from about 81 to 88 dBA Leq at the residential receiver during intense periods of construction near the easternmost portion of the site. As construction activities move away from the easternmost portion of the site (beyond about 200 feet), construction noise levels would be at or below ambient noise levels resulting from traffic along I-880.

Significant noise impacts do not normally occur when standard construction noise control measures are enforced at the project site and when the duration of the noise generating construction period at a particular sensitive receptor is limited to one construction season (typically one year) or less. Construction noises associated with projects of this type are disturbances that are necessary for the construction or repair of buildings and structures in urban areas. Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction materials reduce construction-related noise impacts.

The proposed project would not result in any new or more significant construction-related impacts than were described in the certified 2005 NSJ FPEIR, which assumed construction would be occurring in north San José for many years in the future.

**Impact NOI – 1:** The project would result in a short-term noise level increase in the project area during demolition and construction activities. **(Significant Impact)**

**Mitigation Measures:** The following mitigation measures were identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

**MM NOI – 1.1:** Limit all construction-related activities to the hours of 7 AM to 6 PM Monday through Friday and 8 AM to 5 PM on Saturdays. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building, and Code Enforcement that the construction noise



mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- MM NOI – 1.2:** Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- MM NOI – 1.3:** Locate stationary noise generating equipment as far as possible from sensitive receptors, such as residential uses.
- MM NOI – 1.4:** Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- MM NOI – 1.5:** Prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- MM NOI – 1.6:** Designate a “noise disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

### **Project-Generated Traffic Impacts**

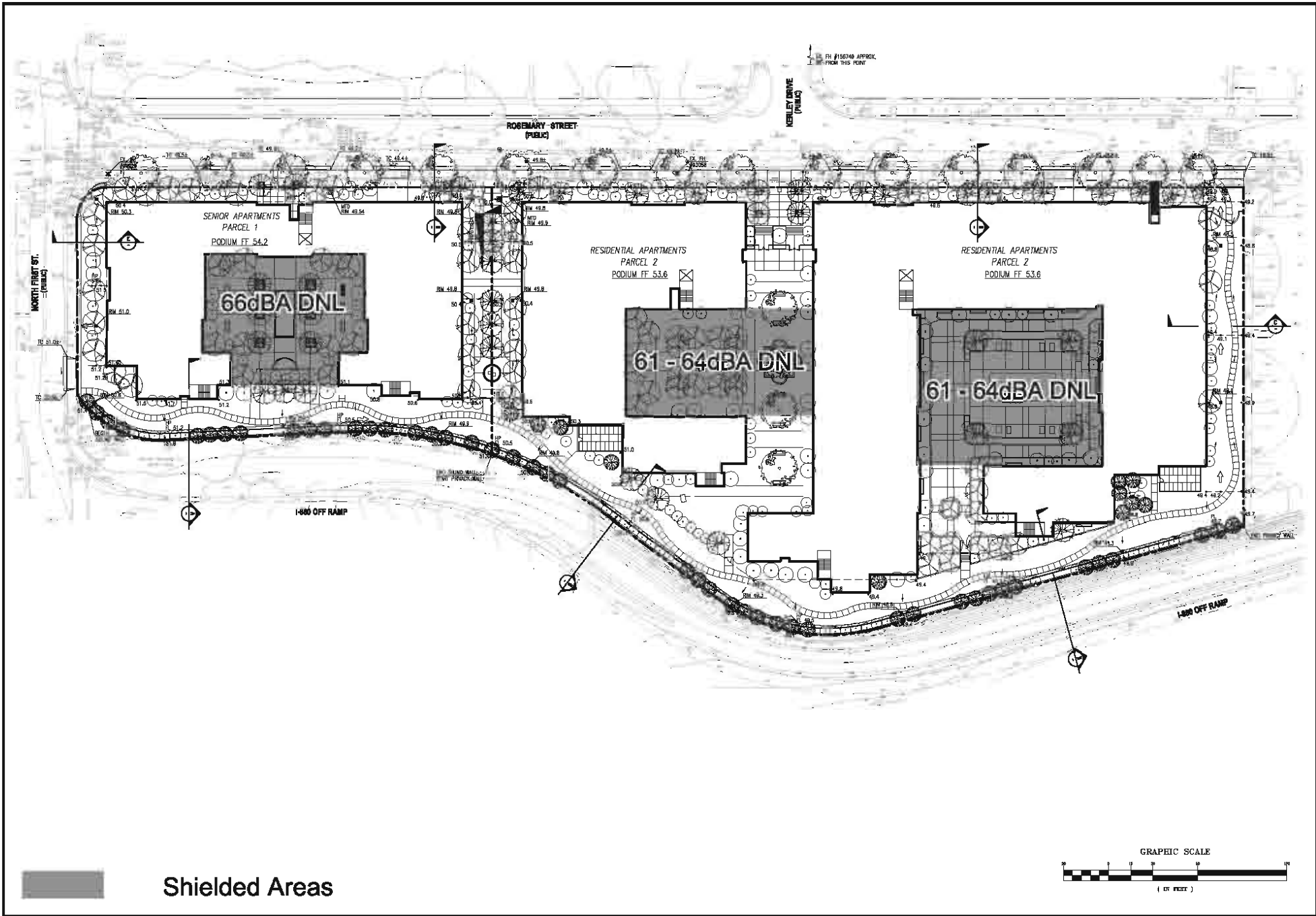
The cumulative development of the north San José Area will increase traffic noise levels along North First Street in the project area by approximately one dBA DNL. The project’s contribution to the overall noise increase would be less. Noise levels along the major roadways serving the project site would not substantially increase as a result of the project.

It was concluded in the certified 2005 NSJ FPEIR that traffic generated by the amount of development analyzed in the document would result in a significant increase in traffic-generated noise. This was identified as a significant unavoidable impact and the City Council adopted a statement of overriding consideration for the impact.

#### **4.11.2.2 Noise Impacts to the Project**

##### **Exterior Noise Levels**

The project proposes shared common use areas, which would be located in courtyards that open toward Interstate 880. Exterior noise levels at the senior housing courtyard would be approximately 66 dBA DNL and the well-shielded portions of the family housing courtyards would range from 61 to 64 dBA DNL (refer to Figure 4-2). Exterior noise levels in these spaces would exceed the City of San José’s short-term noise goal of 60 dBA DNL, however, the City’s General Plan recognizes that it may not be possible to reduce exterior noise levels to meet the goal adjacent to major roadways, in the downtown core, or near the airport.



NOISE SHIELDED AREAS

FIGURE 4-2

The proposed project would not expose future residents to any new or more significant exterior noise levels than were described in the certified 2005 NSJ FPEIR.

### **Interior Noise Levels**

Future exterior noise levels throughout the project site would exceed 60 dBA DNL and would vary depending upon the proximity of receivers to North First Street and Interstate 880 and the presence of shielding features. Traffic noise modeling indicates that unshielded facades nearest Interstate 880 and North First Street would be exposed to exterior noise levels up to 79 dBA DNL and 72 dBA DNL, respectively.

Standard residential construction provides approximately 15 dBA of noise reduction, assuming the windows are partially open for ventilation. Standard residential construction with the windows closed provides approximately 20 to 25 dBA of noise reduction. Where exterior day-night average noise levels are 65 dBA or less, the interior noise level can typically be maintained below 45 dBA DNL with the incorporation of forced air mechanical ventilation systems in residential units. These systems allow the occupant the option of controlling noise by keeping the windows shut. Where noise levels exceed 65 dBA DNL, sound-rated building elements may be required to achieve an interior noise level of 45 dBA DNL. Interior noise levels would vary depending on the final design of the building (relative window area to wall area) and the construction materials and methods.

The proposed project would not expose future residents to any new or more significant interior noise levels than were described in the certified 2005 NSJ FPEIR.

**Impact NOI – 3:** The interior noise levels for some of the proposed residential units would exceed the City’s and state’s standard of 45 dBA DNL. **(Significant Impact)**

**Mitigation Measure:** The following mitigation measure was identified as part of the certified 2005 NSJ FPEIR and is proposed by the project:

**MM NOI – 3.1:** Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for units proposed in noise environments exceeding 60 dBA DNL, so that windows could be kept closed at the occupant’s discretion to control noise.

Special building techniques (e.g., sound-rated windows and building facade treatments) would be required to maintain interior noise levels at or below acceptable levels. These treatments would include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, protected ventilation openings, etc. Preliminary calculations indicate that residential units nearest I-880 and with direct line of sight to the roadway would require sound rated windows and doors with ratings ranging from STC 35-40 to assure that the 45 dBA DNL indoor standard is met.

Project-specific acoustical analysis will be prepared to confirm that interior noise levels will be reduced to 45 dBA DNL or lower. The specific determination of what noise insulation treatments are necessary will be completed on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the

City along with the building plans for review and approval, prior to issuance of a building permit.

### **Vibration Impacts**

The US Department of Transportation has developed vibration impact assessment criteria for evaluating vibration impacts associated with rapid transit projects. The criterion for groundborne vibration impacts is 72 VdB for frequent events (more than 70 events per day).

As discussed above, Light Rail Transit (LRT) currently operates on North First Street. The nearest residential units would be located approximately 55 feet from the center of the northbound track and 70 feet from the center of the southbound track. Vibration generated by light rail trains would range from 60 to 64 VdB at the nearest proposed receivers, which is below the US Department of Transportation impact criterion of 72 VdB for groundborne vibration impacts. Other proposed residences located further from the LRT tracks would be exposed to lower vibration impacts. For these reasons, the project would not be subjected to significant vibration levels.

### **Aircraft Noise**

A review of the 65 CNEL noise contour map established by the Santa Clara County ALUC indicates that the project site is located outside of the future 65 CNEL noise contour. Where noise levels are less than 65 CNEL (i.e., located outside the 65 CNEL noise contour), residential land uses are considered compatible with the exterior noise environment. The proposed project would not result in any new or more significant aircraft noise impacts than described in the certified 2005 NSJ FPEIR.

#### **4.11.3 Conclusion**

**Impact NOI – 1:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant short-term construction noise impacts than those addressed in the certified 2005 NSJ FPEIR. The proximity of the site to existing residences, and the length of the construction for this project will contribute to the significant impacts assumed in the 2005 NSJ FPEIR. **(No New Impact)**

**Impact NOI – 2:** Exterior noise levels would exceed the City’s short-term noise goal of 60 dBA DNL for common open space areas. The common open space areas proposed by the project would be exposed to noise levels ranging from 61 to 70 dBA DNL. Exterior noise levels at the senior housing courtyard would be approximately 66 dBA DNL and the well-shielded portions of the family housing courtyards would range from 61 to 64 dBA DNL (refer to Figure 4-2). The City of San José General Plan recognizes that it may not be possible to reduce exterior noise levels to meet the goal adjacent to major roadways, in the downtown core, or near the airport. The project would not result in any new or more significant interior noise impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**Impact NOI – 3:** The proposed project, with the implementation of the above mitigation measures, would not result in any new or more significant interior noise

impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.12 POPULATION AND HOUSING**

**4.12.1 Setting**

The current and future population and housing estimates and assumptions have not changed since the certification of the 2005 NSJ FPEIR. Currently, there are no residential uses on-site.

**4.12.2 Environmental Checklist and Discussion of Impacts**

POPULATION AND HOUSING						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The project site is designated in the City’s General Plan for high density residential development (25-65 du/ac). The project proposes to demolish the existing buildings on-site and construct up to 290 residential units (i.e., approximately 72 dwelling units per acre). Because a portion on the proposed project is senior housing, the Population-Dwelling Unit Equivalency Alternate Use policy is applicable. This policy states that a residential development (e.g., senior citizens housing, convalescent hospitals and independent-living establishments for handicapped persons) may be found consistent with a residential land use designation by using a "population-dwelling unit equivalency" calculation. This calculation compares the population density allowed under the existing General Plan land use designation (i.e., maximum dwelling unit density multiplied by the average household size) to the population density proposed by the project (i.e., proposed dwelling unit density multiplied by the average senior household size). Using this calculation, the population density of the senior housing element of the proposed project is estimated to be 128 residents per acre, which is less than the population density allowed under the existing General Plan land use designation (i.e., 208 residents per acre).<sup>8</sup> For this reason, the proposed development would not

<sup>8</sup> This calculation is based upon an average of 3.2 residents per conventional household (average household size per San Jose General Plan) and 1.27 residents per senior household (average household size at Craig Gardens Senior Apartments, San Jose, CA).

induce growth beyond what is anticipated in the General Plan. The project is, however, new growth compared to existing conditions.

The proposed project would not result in any new or more significant population growth and/or housing impacts than were described in the certified 2005 NSJ FPEIR.

**4.12.3            Conclusion**

The proposed project would not result in any new or more significant population growth or housing impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.13 PUBLIC SERVICES**

**4.13.1 Setting**

The fire, police, school, and park services and facilities have not changed since the certification of the 2005 NSJ FPEIR. The nearest fire station is Station #5, which is located approximately one mile northeast of the project site at 1380 North Tenth Street. Officers patrolling the project area are dispatched from police headquarters, located at 201 West Mission Street. The project site is located within the San José Unified School District (SJUSD), which is comprised of 54 schools including 31 elementary schools, seven middle schools, seven high schools, seven continuation schools, one charter school, and one alternative school. The nearest park to the project site is Bernal Park, which is located approximately one mile southeast of the project site at the intersection of East Hedding Street and North Seventh Street. The nearest library to the project site is the Joyce Ellington Branch Library, which is located approximately two miles southeast of the project site at 491 East Empire Street.

**4.13.2 Environmental Checklist and Discussion of Impacts**

PUBLIC SERVICES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project: 1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

**4.13.2.1 *Fire and Police Service***

The project would be constructed in conformance with current codes, including features that would reduce potential fire hazards. The project design would also be reviewed by the SJPD to ensure that it incorporates appropriate safety features to minimize criminal activity.



As discussed in the certified 2005 NSJ FPEIR, the buildout of the development analyzed would incrementally increase the need for fire and police protection services, which may create the need for additional staffing or resources, or a new fire station in the greater north San José project area. The increase in demand for fire and police services is not necessarily an environmental impact. The environmental impact, if it does occur, would generally result from the impacts on the physical environment that result from the physical changes made in order to meet the demand. Future development of new fire facilities in the project area would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR. It was concluded in the certified 2005 NSJ FPEIR that the construction of a new fire station in north San José would not have significant adverse environmental impacts.

While the development of residential uses on the project site could incrementally increase service calls, given the infill location of the project site and the fact that the site is already served by the SJFD and SJPD, it is not anticipated the proposed project would result in significant impacts to police and fire services, nor would this project alone require the construction of additional fire or police facilities. Furthermore, the proposed project would not result in any new or more significant impacts to fire and police service than were described in the certified 2005 NSJ FPEIR.

#### **4.13.2.2 Schools**

The project site is located within the San José Unified School District (SJUSD), which is comprised of 54 schools including 31 elementary schools, seven middle schools, seven high schools, seven continuation schools, one charter school, and one alternative school. Of the 290 residences proposed by the project, only the 184 family residences would generate students. The 106 senior residences would not generate students.

It was estimated that the buildout of the development assumed in the certified 2005 NSJ FPEIR, including the project site, would generate approximately 383 elementary students, 184 middle school students, and 240 high school students that would attend SJUSD schools. The 184 family residences proposed by the project would incrementally contribute to this total student generation assumed in the certified 2005 NSJ FPEIR and, therefore, would not result in any new or more significant school impacts than were described in the certified 2005 NSJ FPEIR.

The certified 2005 NSJ FPEIR concluded that the construction of new schools in north San José would not necessarily result in significant adverse environmental impacts. Future development of new school facilities in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR, depending on the location and size of the school. There are also specific requirements set by the state for constructing a new school that would have to be met.

State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with state law. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would offset project-related increases in student enrollment. The proposed project would increase the number of school children attending public schools in the project area, but would mitigate its impact through compliance with state law regarding school mitigation.

**Standard Measure:** The project proposes to implement the following standard measure:

- In accordance with California Government Code Section 65996, the developer shall pay a school impact fee prior to issuance of building permits, which will offset the increased demands on school facilities caused by the proposed project.

#### **4.13.2.3**      *Parks*

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) (Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient parkland to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. This ordinance is intended to reduce the extent to which new development will exacerbate the existing shortfall of park and recreational facilities. All new development of high density housing is required to provide private and common open space in conformance with the City's adopted Residential Design Guidelines. Each new residential project is also required to conform to the PDO and PIO. Low income units are exempt from the PDO and PIO. As stated in **Section 3.0 Project Description**, one hundred percent of both the senior and family housing units proposed by the project will be low income. Therefore, the project is exempt from the City's PDO and PIO requirements.

It is anticipated that the buildout of the development evaluated in the certified 2005 NSJ FPEIR would result in an incremental increase in the need for parks and recreational facilities. It was concluded in the certified 2005 NSJ FPEIR that the development of new parks and recreation facilities in the area of north San José designated for residential development would not result in new significant adverse environmental impacts. Future development of new park and recreation facilities in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

#### **4.13.2.4**      *Libraries*

The project site is served by the San José Public Library System, which includes of one main library and 20 branch libraries. The branch library nearest to the project site is Joyce the Ellington Branch Library, which is located approximately two miles southeast of the project site at 491 East Empire Street.

It is anticipated that the buildout of the development evaluated in the certified 2005 NSJ FPEIR would create a significant new demand that would exceed the resources and service capacity of existing and nearby libraries and, as a result, a new branch library may be needed in the project area. It was concluded in the certified 2005 NSJ FPEIR that the development of a new library in the project area would not result in new significant adverse environmental impacts. Future development of new library in the project area, however, would require supplemental environmental review, which

#### **4.13.3**      **Conclusion**

The proposed project, with the implementation of the above standard measure, would not result in any new or more significant impacts to public services or facilities than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.14 RECREATION**

**4.14.1 Setting**

The existing park and recreational facilities in the project area have not changed since the certification of the 2005 NSJ FPEIR. The nearest park to the project site is Bernal Park, which is located approximately one mile southeast of the project site at the intersection of East Hedding Street and North Seventh Street.

**4.14.2 Environmental Checklist and Discussion of Impacts**

RECREATION						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

As discussed in **Section 4.13 Public Services**, the City of San José has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) requiring new residential development to either dedicate sufficient parkland to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. This ordinance is intended to reduce the extent to which new development will exacerbate the existing shortfall of park and recreational facilities. All new development of high density housing is required to provide private and common open space in conformance with the City’s adopted Residential Design Guidelines. Each new residential project is also required to conform to the PDO and PIO. Low income units are exempt from the PDO and PIO. As stated in **Section 3.0 Project Description**, one hundred percent of both the senior and family housing units proposed by the project will be low income. Therefore, the project is exempt from the City’s PDO and PIO requirements.

It is anticipated that the buildout of the development evaluated in the certified 2005 NSJ FPEIR would result in an incremental increase in the need for parks and recreational facilities. It was concluded in the certified 2005 NSJ FPEIR that the development of new parks and recreation facilities in the area of north San José designated for residential development would not result in new significant adverse environmental impacts. Future development of new park and recreation facilities

in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

**4.14.3            Conclusion**

The proposed project would not result in significant impacts to recreational facilities beyond those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.15 TRANSPORTATION**

The following discussion is based, in part, upon the results of several parking demand surveys completed by *Hexagon Transportation Consultants* for senior housing developments in San Jose and the surrounding Bay Area. A memorandum summarizing the results of these surveys is included as Appendix I to this Addendum.

**4.15.1 Setting**

The transportation system in the project area, including regional and local roadways, bicycle and pedestrian facilities, and existing transit services (i.e., bus and light rail services) has not substantially changed since the certification of the NSJ FPEIR in June 2005.

**4.15.1.2 *Roadways***

Regional access to the project site is provided by Highway 101 and Interstate 880. Local access to the project site is provided by North First Street, East Rosemary Street, and North Fourth Street.

**4.15.1.3 *Bicycle Facilities***

Bicycle facilities in the project vicinity include bike routes on North First Street and North Fourth Street.

**4.15.1.4 *Pedestrian Facilities***

Pedestrian facilities in the project area include sidewalks along all streets and crosswalks at all major intersections.

**4.15.1.5 *Public Transportation***

Express Bus Route 180 and Light Rail Transit (LRT) operate in the project area. The Gish LRT Station is located within walking distance of the project site.

**4.15.2 Environmental Checklist and Discussion of Impacts**

TRANSPORTATION/TRAFFIC							
	New Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project: 1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		1,2

TRANSPORTATION/TRAFFIC						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,,2
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

**4.15.2.1 Roadway, Transit, Bicycle, and Pedestrian Facilities**

The project proposes to construct up to 106 senior residences and 184 family residences. Although the density of the proposed project (i.e., 73 dwelling units per acre) exceeds the maximum planned density for the site (i.e., 65 dwelling units per acre), 37 percent of the units proposed by the project would be senior housing. Senior housing generates less traffic than conventional housing. This is supported by the Institute of Transportation Engineers (ITE) Trip Generation Rates. According to the ITE, senior housing apartments generate approximately 75 percent less peak hour trips compared to conventional housing.<sup>10</sup> For this reason, the proposed project would not result in additional traffic trips beyond what was assumed in the NSJ FPEIR and the project’s traffic impacts were analyzed and accounted for in the certified 2005 NSJ FPEIR and the proposed project would not result in any new roadway, transit, bicycle, or pedestrian facility impacts or impacts of greater severity than were already analyzed and disclosed in the NSJ FPEIR.

<sup>10</sup> The ITE Trip Generation Rates for senior apartments is 0.08 and 0.11 trips during AM and PM peak hours, respectively, and 0.3 and 0.4 AM and PM peak hour trips for standard apartments, respectively.

**Standard Measure:** The project proposes to implement the following standard measure:

- The project shall comply with the City’s *North San José Area Development Policy Traffic Impact Fee Ordinance*.

**4.13.2.2 Parking**

The City’s *Residential Design Guidelines* and Zoning Ordinance specify the off-street parking requirements for residential uses, and are shown below in Table 4.0-4.

<b>Table 4.0-4 Minimum Parking Requirements</b>	
<b>Unit Size</b>	<b>Parking Spaces Required*</b>
Independent Senior	1/unit + 1/employee
Studio	1.4
1 Bedroom	1.5
2 Bedroom	1.8
3 Bedroom	2.0
3 Bedroom+; add per bedroom	0.15
* Parking ratios are based on all open parking and no tandem spaces being provided (City of San José. <u>Residential Design Guidelines</u> . February 1997).	

Using the standard parking requirements specified in the *Residential Design Guidelines*, the project is required to provide 108 parking spaces for the senior housing units and 327 parking spaces for the family housing units. Because the project is located with 2,000 feet of the Gish Light Rail Transit Station, the on-site parking requirement for the project can be reduced 10 percent (Municipal Code 20.90.220A). With this 10 percent reduction, the parking requirement for the project is 98 spaces and 295 spaces for the senior housing and family housing, respectively.

Two partially below-grade garages (one for the senior housing and one for the family housing) would provide on-site parking for the project. The senior housing parking garage would provide a total of 77 parking spaces, which is 21 spaces short of the parking requirement.<sup>11</sup> The Rincon Specific Plan states that parking requirements can be modified, if supported by a supplemental parking study. Senior housing typically requires less parking spaces than conventional housing, which is supported by the parking demand surveys completed by *Hexagon Transportation Consultants* for senior housing developments in San Jose and the surrounding Bay Area (refer to Appendix I). Based upon the results of these senior housing parking demand surveys, the recommended parking ratio for senior housing proposed by the project is 0.66 parking spaces per unit. The senior housing parking ratio proposed by the project (i.e., 0.72 spaces per unit) exceeds the recommended parking ratio and, therefore, is considered adequate.

<sup>11</sup> Includes 10 percent reduction for being located with 2,000 feet of transit (Municipal Code 20.90.220A).

The family housing parking garage would provide a total of 294 parking spaces, which is one space short of the parking requirement.<sup>10</sup> One parking spaces is not a substantial amount of parking. In addition, the site is within walking distance of the Gish LRT Station and parking is also available on the streets in the project area. For these reasons and those stated above, the parking proposed by the project is considered adequate and will not result in excessive parking spillover. The project would not result in any safety impacts or restrict access of emergency vehicles.

#### **4.15.3            Conclusion**

The proposed project, with the implementation of the above measures, would not result in new or more significant impacts to the transportation system than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**



**4.16 UTILITIES AND SERVICE SYSTEMS**

**4.16.1 Setting**

The water, sanitary sewer, storm drainage, solid waste, natural gas, and electricity services and facilities have not changed since the certification of the 2005 NSJ FPEIR.

**4.16.2 Environmental Checklist and Discussion of Impacts**

UTILITIES AND SERVICE SYSTEMS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
Would the project:						
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

The project site is an infill site that is currently served with all necessary utilities. Utilities and services, such as water, sanitary sewer, storm drains, electricity, telephone, and natural gas will be provided from existing lines in vicinity of the project site. The project will require extension and expansion of these utilities onto the site; however, the project will not require the construction of extensive new utility infrastructure. At the PD Permit stage, the capacity of the existing utilities to serve the proposed 290 residential units would be determined. The project applicant shall be responsible for utility improvements.

The certified 2005 NSJ FPEIR concluded that full build-out of the project would not result in significant adverse environmental impacts as a result of development exceeding the capacity of the water supply, sanitary sewer/wastewater treatment, or storm drainage systems.

#### **4.16.3            Conclusion**

The proposed project would not result in new or more significant impacts to utilities and services systems than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

**4.17 MANDATORY FINDINGS OF SIGNIFICANCE**

	New Potentially Significant Impact	New Than Significant With Mitigation Incorporated	Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Information Source(s)/ Discussion Location
1) Does the project have the potential to 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, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2, p. 11-80
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2, p. 11-80
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2, p. 11-80

The 2005 NSJ FPEIR analyzed the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, and the addition of 32,000 new dwelling units in the Rincon area. Phase I of NSJ allows for the development of up to 8,000 residences. The allocation of unit capacity occurs with approval of a PD Permit. Since the approval and certification of the NSJ FPEIR in June 2005, 12 rezonings have been approved for a total of 7,383 units on 129.21 gross acres.<sup>12</sup> PD Permits and/or a Development Agreement have been approved for ten of these residential projects (file numbers PDC05-099, PDC06-022, PDC06-038, PDC06-061, PDC06-085, PDC06-093, PDC06-130, PDC07-054, PDC07-055 and PDC07-057), which allow for the development of up to 6,562 residential units on 123.95 gross acres.

The project proposes to develop up to 290 residential units. The proposed development is within the amount of development analyzed in the 2005 NSJ FPEIR, therefore, the project would not result in new or more significant environmental impacts than those addressed in the certified 2005 NSJ FPEIR with the implementation of the standard, avoidance, and mitigation measures included in the project and described in the specific sections of this Addendum (refer to **Section 4.0 Environmental Setting, Checklist, and Discussion of Impacts**, on pages 11 thru 80 of this Addendum).

The City of San José has determined that this project qualifies for an addendum to the 2005 NSJ FPEIR.

<sup>12</sup> PDC06-067 (Cadence/Essex) is pending City Council decision on June 17, 2008 for 777 units on 14.5 gross acres.

### Checklist Sources

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site and surrounding conditions, as well as a review of the project plans.
2. City of San José. Final Environmental Impact Report, North San José Development Policies Update. June 2005.
3. California Department of Conservation. Santa Clara County Important Farmland Map. 2004.
4. City of San José. Zoning Ordinance. 10 February 2006.
5. Bay Area Air Quality Management District. CEQA Guidelines. December 1999.
6. Illingworth & Rodkin. Rosemary Street Residential-San José, CA DPM Air Quality Study. October 2007.
7. Concentric Ecologies. Preliminary Tree Report WYSE Property. June 2007.
8. Basin Research Associates. Archaeological Evaluation Report. July 2007.
9. Blackie, Belinda. Vicinity Hazardous Materials Users Survey, North First Street-East Rosemary Street Redevelopment Project, San José, CA. September 2007.
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