

Draft
Environmental Impact Report

4300 Stevens Creek Boulevard
Mixed-Use Project

File No. PDC16-036, PD17-014, PT17-23

Prepared by the



In Consultation with



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4300

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- Appendix G – Water Supply Assessment
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PREFACE

This document has been prepared by the City of San José, as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations § 15000 *et seq.*), and the regulations and policies of the City of San José. The purpose of this Environmental Impact Report (EIR) is to inform decision makers and the general public of the environmental effects of the proposed project.

In 2011, the City approved the Envision San José 2040 General Plan (General Plan), which is a long-range program for the future growth of the City. The City of San José's Envision San Jose 2040 General Plan Final EIR (General Plan FEIR), as amended was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan FEIR (as amended) to be a program level document from which subsequent development consistent with the General Plan could tier. In December 2015, the City of San José approved an Envision San José 2040 Plan Supplemental FEIR (General Plan SFEIR) for the General Plan to include and update the greenhouse gas emissions analysis. On December 13, 2016, as part of the General Plan 4-Year Review, the City Council approved an addendum to the General Plan FEIR (as amended) and SFEIR, to modify the job capacity to 751,650, reducing the number of jobs by 87,800. The number of residential units remained the same.

Purpose of the EIR

In accordance with CEQA, this EIR provides objective information regarding the environmental consequences of the proposed project to the decision makers who would be considering and reviewing the proposed project. The CEQA Guidelines contain the following general information of the role of an EIR and its contents:

§15121(a) – Informational Document. An EIR is an informational document, which shall inform public agency decision makers and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information that may be presented to the agency.

§15145 – Speculation. If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

§15151 – Standards for Adequacy of an EIR. An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not to be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

SUMMARY

The project proposes construction of two eight-story residential buildings (combined total of 582 residential units), a six-story, 300,000 square foot office building, and a five-level parking garage. The following is a summary of the significant impacts and mitigation measures addressed within this EIR. The project description and full discussion of impacts and mitigation measures can be found in *Section 2.0 Description of the Proposed Project, Section 3.0 Environmental Setting, Impacts, & Mitigation, and Section 4.0 Cumulative Impacts* of this EIR.

Significant Impacts	Mitigation Measures
Air Quality	
Impact AQ-1: Construction of the proposed project would result in a temporary community risk impact toxic air contaminants.	MM AIR-1.1: All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent. MM AIR-1.2: All diesel-powered portable equipment (i.e., air compressors and aerial lifts) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. MM AIR-1.3: Prior to the issuance of any demolition, grading, and/or building permits, the project applicant shall submit to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.
Less Than Significant With Mitigation	
Biological Resources	
Impact BIO-1: Construction activities associated with the proposed project could result in an impact to nesting migratory birds due to the loss of fertile eggs or nest abandonment.	MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31 st (inclusive). MM BIO-1.2: If it is not possible to schedule demolition and construction activities outside of the breeding season (September 1 st to January 31 st , inclusive), pre-construction surveys for nesting birds following the California Department of Fish

and Wildlife (CDFW) bird survey protocols shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner.

Less Than Significant With Mitigation

Greenhouse Gas Emissions

Impact GHG-1: Operation of the project will result in GHG emissions in excess of the "Substantial Progress" efficiency metric of 2.6 Metric Tons CO₂ per service population per year established by the California Air Resources Board 2017 Climate Change Scoping Plan to meet the 2030 reduction targets in Senate Bill SB32. **(Significant Impact)**

MM GHG-1.1: The project proposes to include a transportation demand management (TDM) plan. The TDM Plan will be finalized and approved by the City prior to issuance of occupancy permits and would include a combination of at least three of more of the following measures for each component of the project:

Office/Retail

- Provide on-site showers for employees.
- Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM Plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the employees are aware of transportation options. The TDM coordinator will provide the following services:
 - Provide information about public transit services, transit passes, bicycle maps,

bike share information, rideshare/carpool programs, Zipcar station locations, and ride matching services.

- Assist with rideshare/carpool matching.

- Electric vehicle charging stations (and pre-wiring for future stations).
- Secure bicycle parking.
- Preferred carpool parking.
- Free or discounted transit passes for employees.

Residential

- Provide 100 percent unbundled parking for all residential spaces.
- Provide up-to-date transit information at a common area location(s) accessible to all residents.
- Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM Plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the site occupants are aware of transportation options. The TDM coordinator will provide the following services:
 - Provide new tenant information packets at the time of move-in. The packets would include information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool programs, Zipcar station locations, and ride matching services.
 - Assist with rideshare/carpool matching.
- Carshare and/or bikeshare programs on-site.
- Electric vehicle charging stations (and pre-wiring for future stations).
- Free or discounted transit passes to all residents.
- Secure bicycle parking and bicycle repair stations.
- Free high-speed Wi-Fi for all tenants (to allow for telecommuting).

Significant and Unavoidable Impact

Hazards and Hazardous Materials

Impact HAZ-1: Implementation of the proposed project could release pesticide chemicals from on-site soils into the environment, and expose

MM HAZ-1.1: After demolition but prior to the issuance of grading permits, a qualified environmental specialist shall collect shallow soil samples from the native soil layers within the

construction workers to residual agricultural soil contamination.

surface lots and have the samples analyzed to determine if contaminated soil from previous agricultural operations is located on-site with concentrations above established construction/trench worker and residential thresholds. The soil shall be tested for organochlorine pesticides and pesticide based metals, arsenic and lead. Once the soil sampling analysis is complete, a report of the findings will be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

MM HAZ-1.2: If contaminated soils are found in concentrations above established regulatory environmental screening levels, the applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP) to formalize regulatory oversight for remediation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil in order to achieve detection levels acceptable to the SCCDEH. With approval of the SCCDEH, some of the contaminated soil may be allowed to be left in-place buried under hardscape and/or several feet of clean soil.

The project applicant shall prepare and implement a Removal Action Plan, Soil Mitigation Plan or other similar report describing the remediation process and to document the removal and /or capping of contaminated soil. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH.

Less Than Significant With Mitigation

Noise and Vibration

Impact NOI-1: Construction of the proposed project could expose the adjacent automotive dealership to vibration levels in excess of City standards in General Plan Policy EC-2.3.

MM NOI-1.1: A Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after vibration generating construction activities. The plan shall be submitted to the Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement for review and approval. The Plan shall address vibration impacts to adjacent

structures. The plan shall include, but is not limited to:

- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using equipment that has been known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.)
- Avoidance methodology to avoid and/or reduce impact to the adjacent property.

MM NOI-1.2: The project applicant shall include the following measures as part of the approved construction plans prior to the issuance of any demolition or grading permits:

- Construction crews shall avoid dropping heavy objects or equipment within 30 feet of any adjacent structure.
- The project applicant shall ensure that all contractors follow the prescribed vibration mitigation measures.
- The project applicant shall designate a specific person responsible for registering and investigating claims of excessive vibration. The contact information shall be clearly posted on the construction site so as to be seen from all street frontages.
- If cosmetic or structure damage to the adjacent buildings is caused directly or indirectly by project construction, the project applicant shall make the necessary repairs and provide adequate documentation of the repairs to the Director of Planning, Building and Code Enforcement prior to issuance of any occupancy permits.

Less Than Significant With Mitigation

Transportation/Traffic

Impact TRAN-1: Implementation of the proposed project would have a significant impact on the San Tomas Expressway and Saratoga Avenue intersection during the AM Peak Hour under background plus project conditions.

MM TRAN-1.1: Prior to issuance of any building permits, the project applicant shall pay fair share fees to the County of Santa Clara based on the August 2015 update of the County Expressway Plan 2040, which identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 project. Payment of the fee would reduce the impact to a less than significant level.

Less Than Significant With Mitigation

Impact TRAN-2: Implementation of the proposed project would have a significant impact on six HOV freeway segments on I-280.

Mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes. Because it would not be feasible for the project to bear the responsibility for implementing such improvements, it is recommended the project make a fair share contribution towards the VTA Voluntary Mitigation Program for the impacted freeway segments. Because no freeway widening project has been developed by Caltrans or VTA, the impacts on the HOV freeway segments identified would be significant and unavoidable.

Significant and Unavoidable Impact

SUMMARY OF ALTERNATIVES TO THE PROPOSED PROJECT

The California Environmental Quality Act (CEQA) requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project, but avoid or substantially lessen significant environmental effects, or further reduce impacts that are considered less than significant with the incorporation of mitigation. A summary of project alternatives follows. A full analysis of project alternatives is provided in Section 8.0 Alternatives Analysis.

No Project – No Development Alternative

The No Project – No Development Alternative would retain the existing commercial buildings and surface parking lots, and would not re-locate Lopina Way. The existing development is consistent with the underlying General Plan designation, but is not consistent with the Stevens Creek Boulevard Urban Village Plan.

No Project – General Commercial Redevelopment Alternative

The project site is currently designated *Urban Village* in the Stevens Creek Urban Village Plan. The *Urban Village* land use designation in the Stevens Creek Urban Village allows mixed-use development with retail, professional and general offices, and institutional uses as well as residential uses in a mixed-use format at densities of 65 to 250 dwelling units per acre. The site is zoned *CG – Commercial General*, a zoning district that allows a broad range of retail and commercial uses ranging from offices to large commercial retail centers.

The existing one and two-story commercial buildings combined total approximately 105,000 square feet of commercial space, resulting in an FAR of about 0.25. This density of development is well below the development allowed under the *Urban Village* land use designation and the density of development anticipated in the adopted Stevens Creek Urban Village Plan. Therefore, it is reasonable to assume that if the proposed mixed-use project were not approved, an alternative development would be proposed in the future which conforms to the Stevens Creek Urban Village

Plan, resulting in an increase in density and height over existing conditions. Such an alternative would likely result in between 600,000 and 900,000 square feet of commercial space.

Reduced Development Alternative

In an effort to avoid one or more of the significant transportation impacts that would result from the proposed project but still provide new commercial, retail, and residential on-site, this alternative evaluates a reduced amount of development. The intent of the reduced development alternative is to identify the total development that could occur on the project site and avoid or lessen the transportation impacts.

Based on the traffic data developed for the proposed project, the total number of net new daily traffic trips would need to be reduced by 15 percent (from 5,563 to 4,729) to avoid the intersection impact. This could be accomplished by reducing the overall size and density of one or more of the proposed land uses. To avoid the identified freeway impacts, the total number of net new daily traffic trips would need to be reduced by 25 percent (from 5,563 to 4,172).

If the proposed site layout and building footprints were maintained, the reduction in commercial and residential development would result in a reduction in overall building heights. This alternative would maintain the same parking ratios as the proposed project. All other development parameters of this alternative would be the same as the proposed project, including site layout and the inclusion of a 1.4-acre pedestrian promenade.

AREAS OF PUBLIC CONTROVERSY

Areas of public concern include:

- Increases in traffic
- Height of the proposed project and compatibility with surrounding development
- Light and glare impacts on nearby residents
- Effect of the project on school enrollment
- Increase in emergency response times due to increased traffic.

SECTION 1.0 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the 4300 Stevens Creek Boulevard Mixed Use project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

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

1.2 EIR PROCESS

1.2.1 Notice of Preparation and Scoping

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, City of San José prepared a Notice of Preparation (NOP) for this EIR. The NOP was circulated to local, State, and Federal agencies on February 17, 2017. The standard 30-day comment period concluded on March 24, 2017. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City of San José also held a public scoping meeting on March 13, 2017 to discuss the project and solicit public input as to the scope and contents of this EIR. The meeting was held at the Cypress Community Center. Appendix H of this EIR includes the NOP and comments received on the NOP.

Since release of the NOP, the total number of residential units proposed by the project was increased. The NOP was revised and reissued for a second 30-day circulation period beginning January 22, 2018 and ending February 21, 2018. The EIR analysis has taken into account comments received in response to the NOP.

1.2.2 Draft EIR Public Review and Comment Period

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

Written comments concerning the environmental review contained in this EIR during the 45-day public review period should be sent to:

David Keyon, Planner IV
Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, Third Floor
San José, CA 95113
(408) 535-7898
david.keyon@sanjoseca.gov

1.3 FINAL EIR/RESPONSES TO COMMENTS

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

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

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

1.3.1 Notice of Determination

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

SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

2.1 PROJECT DESCRIPTION

2.1.1 Background Information

The 10.0-acre project site is comprised of three parcels (APNs 296-38-013, 296-38-014, 296-40-009) located on the south side of Stevens Creek Boulevard between Palace Drive and Kiely Boulevard, as shown on Figures 2.2-1, 2.2-2, and 2.2-3. Lopina Way currently bisects the site.

The site is currently developed with a group of three two-story and one one-story office buildings, a one-story commercial building, and surface parking lots. The project site is accessed by a driveway on Stevens Creek Boulevard, two driveways on Albany Drive, three driveways on the west side of Lopina Way, and three driveways on the east side of Lopina Way.

2.1.2 Planned Development Rezoning

The project site is currently zoned CG – Commercial General. As proposed, the project would rezone the site to CP(PD) – Planned Development zone district to allow for the development of a mixed-use project with up to approximately 315,000 square feet of office/commercial space (including 15,000 to 22,000 square feet of ground-floor retail) and up to 528 residential units.

The project also includes a Planning Development Permit that would allow demolition of the existing buildings and construction of a six-story office/commercial building (Building A), a six level parking garage (Building B), and two eight-story residential buildings (Building C and Building D), one with up to 15,000 square feet of ground floor retail as shown on Figure 2.1-4. In addition, the project proposes to vacate the existing Lopina Way and relocate it to the eastern property line. The existing Lopina Way would be replaced with a landscaped promenade.

2.1.3 Residential and Retail Development

The Planned Development Permit proposes residential buildings that would have a combined total of 582 residential units and would be located on the west side of the project site. The project site would have a density of 110 dwelling units per acre (du/ac).¹ At least 15 percent of the proposed residential units would be affordable (i.e., below market rate).

Building C, located along Stevens Creek Boulevard at the northwest corner of the site, would have up to 289 residential units and up to approximately 10,000 to 15,000 square feet of ground floor retail. Building C would be up to approximately 95 feet tall. Building C would also include a leasing office, a bike room, and a fitness room. A pool deck, terrace space, and other amenity space is proposed on the third floor.

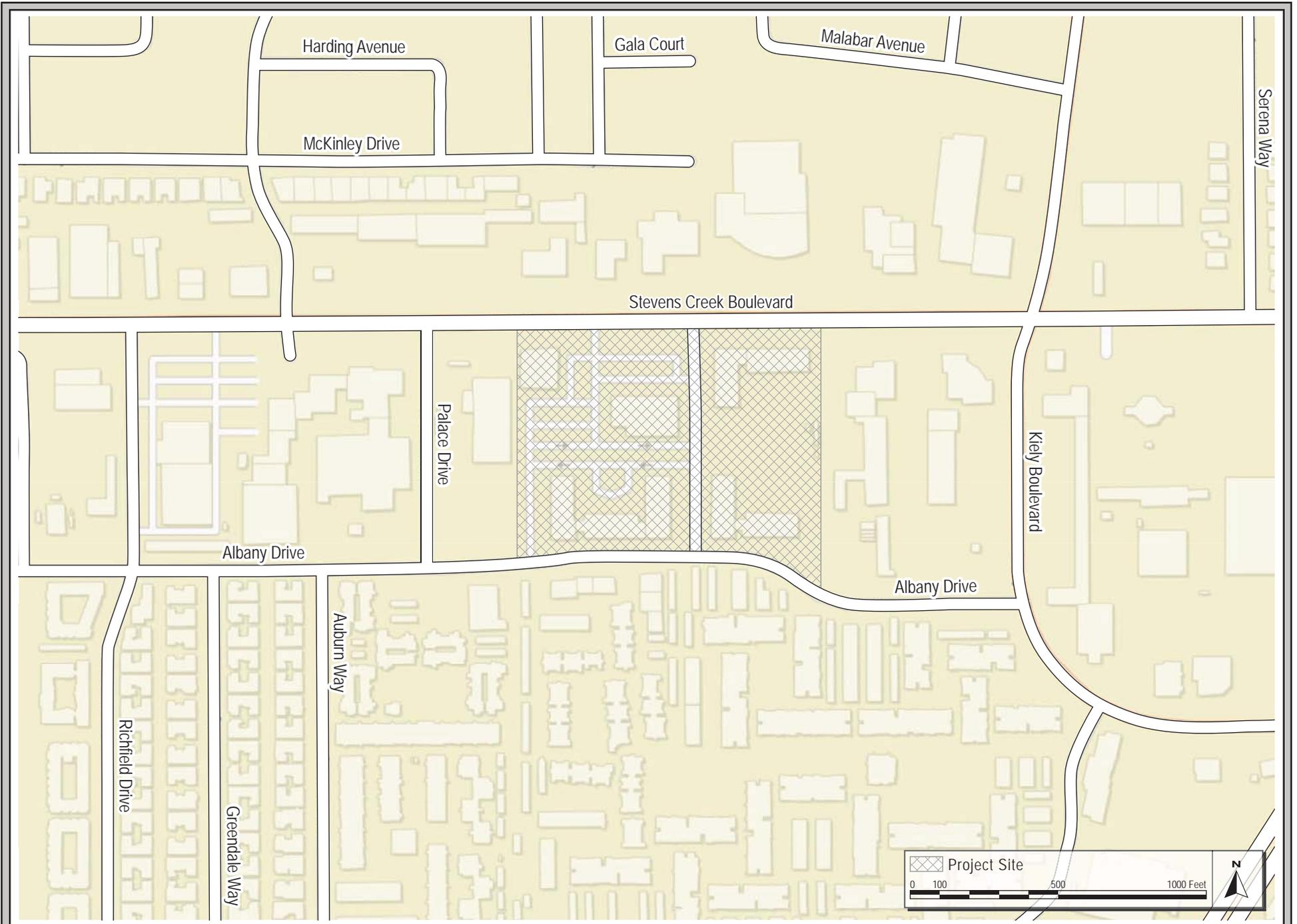
Building D, located along Albany Drive at the southwest corner of the site, would have up to 293 residential units and would include a fitness area, a bike room, a pool deck, and other amenity space. The building would be approximately 84 to 95 feet tall to the rooftop along the north façade, stepping down to between 21.5 and 52 feet tall along Albany Drive.

¹ Approximately 5.26-acres of the project site is proposed for residential land use.



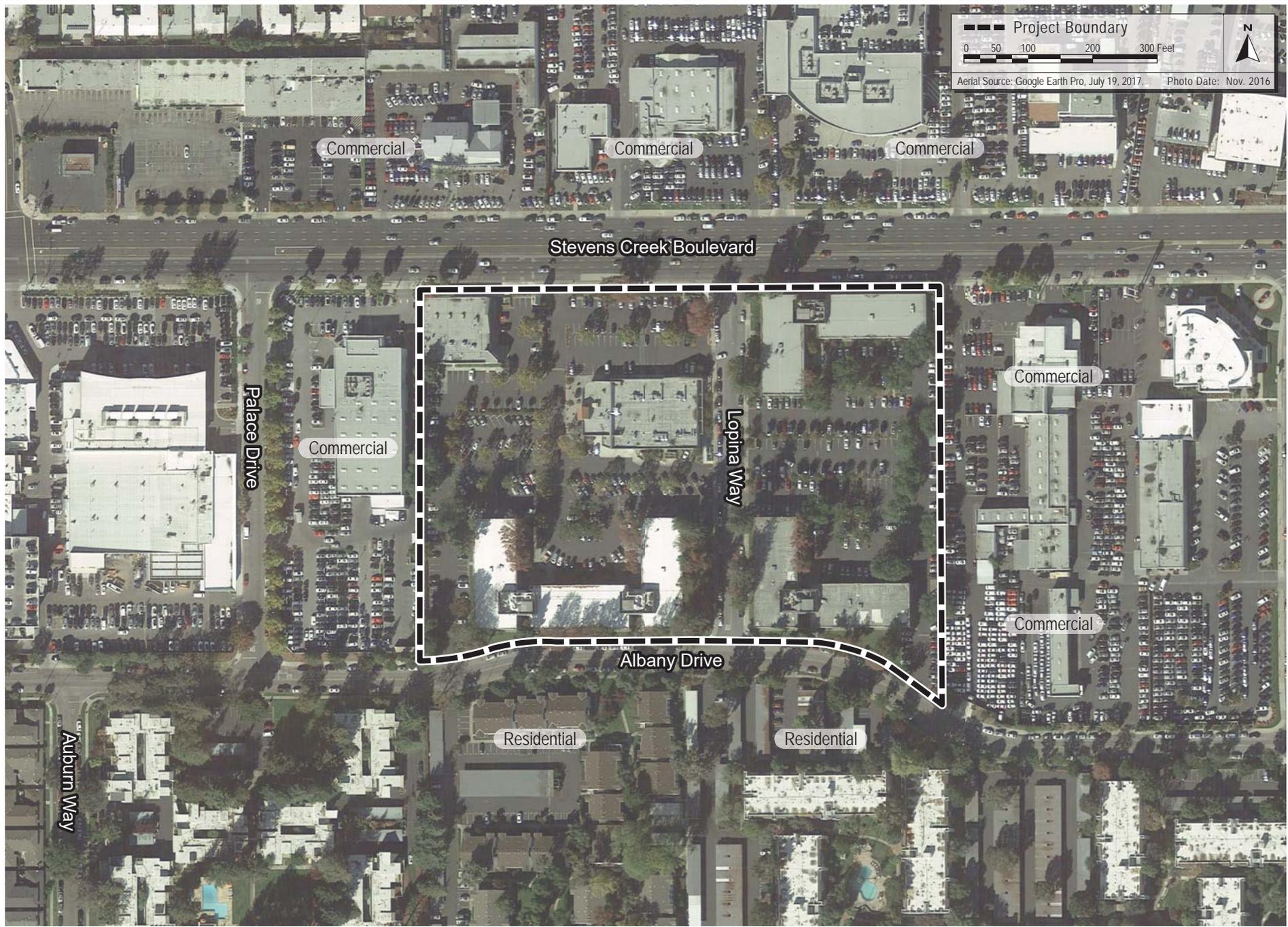
REGIONAL MAP

FIGURE 2.2-1



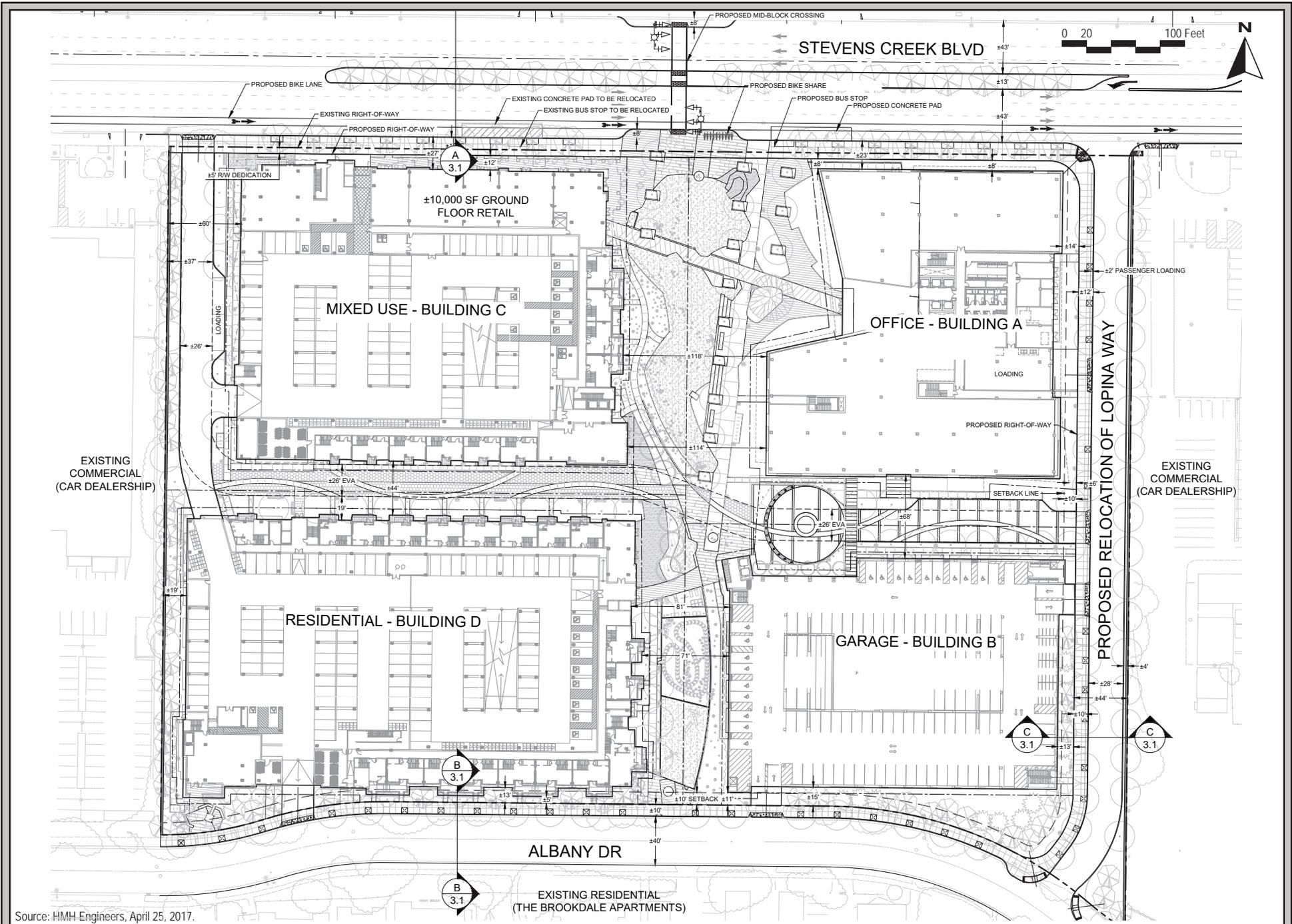
VICINITY MAP

FIGURE 2.2-2



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.2-3



Source: HMM Engineers, April 25, 2017.

CONCEPTUAL SITE PLAN

FIGURE 2.2-4

Residential parking would be provided on-site within parking garages in both Building C and Building D. The garages would be located within the centers of the buildings, wrapped by the residential units. Building C would have eight levels of above-grade parking and two levels of below-grade parking, with approximately 375 parking spaces for residences and 50 parking spaces for retail. Building D would have eight levels of above-grade parking and one level of below-grade parking, with approximately 382 residential parking spaces.

2.1.4 Office and Parking Garage Development

On the east side of the site, an approximately 233,000 to 300,000 square foot office building and a six level parking garage is proposed. Building A, located along Stevens Creek Boulevard at the northeast corner of the site, would have a varied roofline with a maximum height of approximately 91 feet to the parapet and 100 feet to the top of the mechanical screening. Of the 233,000 to 300,000 square feet of office space, up to 7,000 square feet could be optional retail space.

The parking structure, Building B, would serve the proposed office and retail and would be located along Albany Drive at the southeast corner of the site. The parking structure would have five levels of above-grade parking and one level of below-grade parking. The structure would have a maximum height of 42 feet (60 feet to the top of the elevator enclosure) and approximately 858 parking stalls.

The existing driveways on Stevens Creek Boulevard would be removed and replaced with driveways at the northwest and northeast corners of the project site along Stevens Creek Boulevard. The project also proposes two new driveways along Albany Drive that would provide access to the Building B (from Lopina Way) and Building D.

2.1.5 Landscaped Promenade

The project proposes to vacate the existing Lopina Way and relocate it to the eastern property line. The existing Lopina Way would be replaced with an approximately 1.4-acre landscaped promenade which would operate as privately owned, publically accessible open space. The promenade would consist of both active and passive open space including lawns, pathways, seating areas, an amphitheater, a pet park, and a children's discovery zone.

2.1.6 Green Building Measures

The proposed project would be required to build to the California Green Building Code (CALGreen) which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be designed to achieve minimum LEED certification consistent with San José Council Policy 6-32, though no specific building measures have been identified at this time.

2.1.7 Envision San José 2040 General Plan and Zoning Designation

The project site is designated *Urban Village* under the City of San José's General Plan and is located within the adopted Stevens Creek Boulevard Urban Village Plan. The site is zoned *CG – Commercial General*. As the proposed project was submitted prior to adoption of the Stevens Creek Boulevard Urban Village Plan, it is considered a "Signature Project" pursuant to General Plan Policy IP-5.10 and Stevens Creek Boulevard Urban Village Plan Policy LU-1.7. To be considered a

Signature Project, the project must meet all of the criteria outlined in General Plan Policy IP-5.10, including:

1. Within the Urban Village areas, Signature projects are appropriate on sites with an Urban Village, residential, or commercial Land Use / Transportation Diagram designation.
2. The project incorporates job growth capacity above the average density of jobs per acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature project that include housing, those portions incorporate housing density at or above the average density of dwelling units per acre planned for the entire Village Planning area. The commercial/office component of the Signature project must be constructed before or concurrently with the residential component.
3. The project is located at a visible, prominent location within the Village so that it can be an example for, but not impose obstacles to, subsequent other development within the Village area.

Additionally, a proposed Signature project will be reviewed for substantial conformance with the following objectives:

4. The project includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.
5. Achieves the pedestrian friendly design guideline objectives identified within the General Plan.
6. Is planned and designed through a process that provided a substantive opportunity for input by interested community members.
7. Demonstrates high-quality architectural, landscape and site design features.
8. Is consistent with the recommendations of the City's Urban Design Review process or equivalent recommending process if the project is subject to review by such a process.

The project meets the above requirements because: it is located on a site with an Urban Village General Plan land use designation; it will exceed the average jobs density planned in the Stevens Creek Boulevard Urban Village by providing 233,000 to 315,000 square feet of commercial/office space (out of an average jobs density of approximately 192,540 square feet planned for the entire Urban Village); and the project meets or exceeds the planned residential density of the Stevens Creek Urban Village by providing a density of 110 dwelling units per acre. The project is also located in a visible, prominent location on Stevens Creek Boulevard, a major arterial within the City; includes approximately 1.4 acres of publicly accessible, privately maintained open space with frontages on Stevens Creek Boulevard and Albany Drive; and the project is pedestrian oriented overall by providing pedestrian scaled architectural features (such as, but not limited to, shade structures,) and pedestrian amenities (such as, but not limited to ground floor retail tenant spaces that are built close to the sidewalk, street trees and private trees along the publicly accessible, privately maintained open space). Public outreach for the project included two community meetings, consistent with the City

Council Policy on Public Outreach. Lastly, the project exemplifies high-quality design by incorporating high-quality materials, treating the building in an aesthetic manner and providing activation elements within the publicly accessible, privately maintained open space.

The project, as proposed, is consistent with Urban Village land use designation (see Section 3.10, Land Use). The current zoning designation is not consistent with the specific development proposed for the project site. As a result, the project proposes a rezoning to *(PD) – Planned Development*.

2.2 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. The project applicant has stated the following objectives:

1. Rezone and redevelop the 10-acre project site to allow for the creation of a mixed-use Urban Village project, through Planned Development Zoning and Planned Development Permit processes.
2. Redevelop an existing commercial site to:
 - Provide jobs and housing to meet objectives stated in the San Jose Envision 2040 General Plan and in the Stevens Creek Urban Village Plan;
 - Provide a significant addition of affordable housing to the area’s housing stock;
 - Provide job opportunities near existing and future housing areas, and provide housing near new and existing jobs;
 - Situate the proposed land uses near or along major traffic arterials such as Stevens Creek Boulevard, Interstate 280 and both Lawrence and San Tomas Expressways, and rapid bus connection services to allow for multi-modal transit usage for site accessibility with an overall goal of reducing greenhouse gas emissions from the project.
3. Meet high sustainability and green building standards by designing the development to meet US Green Building Code LEED and Cal-Green standards for new construction.
4. Further the goal of the Envision San José 2040 General Plan to “continue to encourage the development of a sound and diverse economic base to support necessary public services. Encourage a stable employment demand corresponding to the City’s labor characteristics. Work towards a sustainable combination of population and production.”
5. Construct up to 22,000 square feet of neighborhood oriented, ground level retail space along Stevens Creek Boulevard.
6. Provide a publicly accessible pedestrian promenade that will serve as a community recreational and gathering space and to connect the surrounding neighborhood with transit and bicycle and pedestrian features on Stevens Creek Boulevard;
7. Construct up to 582 residential rental units including 15 percent below market rate in two buildings.

8. Provide on-site services to residents and support growth in employment and commercial activity by locating limited retail and other commercial uses within the project.
9. Provide an economically sustainable number of units to allow enhancement of the character of the neighborhood by providing common open space areas including plazas, courtyards, a recreation area, and seating areas.
10. Locate higher density housing with easy access to transportation corridors, bus corridor stops, commercial services, and jobs
11. Create a sustainable community by designing public spaces to encourage alternative forms of transportation such as walking, bicycling, and public transportation.
12. Assist the City of San José to satisfy its Regional Housing Needs Allocation for both market rate and below market rate housing units.
13. Construct a new office campus of up to 300,000 square feet.
14. Build office facilities within San José in order to contribute to economic feasibility for immediate and future business operations.

2.3 USES OF THE EIR

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

- Planned Development Rezoning
- Planned Development Permits
- Planned Tentative Map
- Tree Removal Permit
- Issuance of Demolition, Grading, Building, Encroachment, Utility, and Occupancy Permits
- Street vacation and dedication of a new public right-of-way for Lopina Way
- Other applicable Public Works Clearances

SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION

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

- | | | | |
|-----|-------------------------------------|------|---|
| 3.1 | Aesthetics | 3.9 | Hydrology and Water Quality |
| 3.2 | Air Quality | 3.10 | Land Use and Planning/Population and Housing/Agricultural Resources |
| 3.3 | Biological Resources | 3.11 | Noise and Vibration |
| 3.4 | Cultural Resources | 3.12 | Public Services/Recreation |
| 3.5 | Energy | 3.13 | Transportation/Traffic |
| 3.6 | Geology and Soils/Mineral Resources | 3.14 | Utilities and Service Systems |
| 3.7 | Greenhouse Gas Emissions | | |
| 3.8 | Hazards and Hazardous Materials | | |

The discussion for each environmental subject includes the following subsections:

ENVIRONMENTAL SETTING

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

IMPACTS

This subsection: 1) includes thresholds of significance for determining impacts, 2) discusses the project's consistency with those thresholds, and 3) discusses the project's consistency with applicable plans. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.

CONCLUSION

This subsection provides a summary of the project's impacts on the resource.

Important Note to the Reader

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on

impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

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

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter would discuss issues that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

3.1 AESTHETICS

3.1.1 Environmental Setting

3.1.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

The General Plan includes aesthetic policies applicable to the proposed project.

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy CD-10.2: Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San José.

3.1.1.2 *Existing Conditions*

Visual Character of the Project Site

The project site is a commercial property currently developed with five buildings (three office buildings and two retail buildings) surrounded by surface parking lots. The buildings were constructed between 1973 and 1974.

The office buildings are two-story and are primary concrete structure with flat roofs. The buildings have glazing throughout with near full height windows on the first floors and smaller windows on the second floors. The concrete is clad in siding. The buildings are minimalist in design with few distinctive architectural features. The perimeters of the buildings are landscaped with grass, mature

trees, and hardscape. The three office buildings are separated by parking lots and a roadway, but appear cohesive because they share the same architecture and exterior color pallet. (see Photos 1 and 2)

The retail buildings are one-story concrete buildings with flat roofs. The amount and type of glazing on each building varies by tenant space. The primary architecture feature on both buildings is a large portico like structure over the main entrances to the largest tenant spaces. The buildings are similarly styled and have a cohesive look with landscaping throughout the parking areas and along Stevens Creek Boulevard. (see Photos 3 and 4)

The site is currently bisected by Lopina Way, a north-south two-lane roadway that connects Stevens Creek Boulevard to Albany Drive.

Surrounding Land Uses

Development in the project area is a mix of commercial/retail and residential land uses. Building heights vary by land use from one- to three-stories.² The project site is bounded by Stevens Creek to the north and Albany Drive to the south. As mentioned above, Lopina Way bisects the site. Stevens Creek Boulevard is a six-lane thoroughfare with a center turn median.

North of Stevens Creeks Boulevard are a variety of one-story auto-related businesses (see Photos 5 and 6). On the east and west sides of the project site are a one- to two-story auto-related businesses, similar to the development located north of Stevens Creek Boulevard.

South of the project site are two-story and three-story multi-family apartments. The apartments located immediately south of the project site on the west side of Lopina Way are within a fenced property and are set back approximately 25 feet from the roadway by a large area of landscaping. The apartments on the east side of Lopina Way are set back approximately 45-155 feet from the roadway with covered parking and landscaping located between the buildings and Albany Drive. (see Photos 7 and 8)

3.1.1.3 *Scenic Views and Resources*

The project site and the surrounding area are relatively flat and, therefore, the site is only visible from the immediate area. The project area is not located within a designated scenic area or corridor based on the City of San José General Plan. There are no scenic resources within the project area.

3.1.1.4 *Light and Glare*

Sources of light and glare are abundant in the urban environment of the project area, including but not limited to street lights, parking lot lights, security lights, vehicular headlights, internal building lights, and reflective building surfaces and windows.

² There is an eight-story commercial building east of Saratoga Avenue and a four-story apartment on the west side of Saratoga Avenue, but neither building is visible from the project site.



PHOTO 1: View of the project site, looking south on-site.



PHOTO 2: View of the project site, looking west on-site.



PHOTO 3: View of the project site, looking southeast on-site.



PHOTO 4: View of the project site, looking southwest on-site.



PHOTO 5: View of the surrounding development, looking north from Stevens Creek Boulevard.



PHOTO 6: View of the surrounding development, looking northwest from Stevens Creek Boulevard.

3.1.2 Aesthetic Impacts

3.1.2.1 *Thresholds of Significance*

For the purposes of this EIR, an aesthetic impact is considered significant if the project would:

- Have a substantial adverse effect on a scenic vista;
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- Substantially degrade the existing visual character or quality of the site and its surroundings;
or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

3.1.2.2 *Consistency with Plans and Policies*

The proposed project would be required to go through architectural review and comply with design standards established by the City. There would be no parking structures visible from Stevens Creek Boulevard, and the residential parking structures would be completely enclosed within Buildings C and D. The office parking structure would be visible from Albany Drive, but there would be limited views from the nearby apartments due to existing street trees on the south side of Albany Drive and proposed landscaping along the project street frontage. The project would substantially increase open space, and the proposed promenade would provide an attractive pedestrian environment that would support pedestrian movement through the site and from the residential area to Stevens Creek Boulevard. Lastly, the project would be compatible with the surrounding development. For these reasons, the project would be consistent with General Plan Policies CD-1.1, CD-1.12, CD-1.17, CD-4.9, and CD-10.2 and the urban design policies and standards of the Stevens Creek Boulevard Urban Village Plan (Chapter 4).

3.1.2.3 *Visual and Aesthetics Impacts*

Generally, visual effects discussed in a CEQA document would be of two types: impacts from the project's appearance (i.e., visual character) and what views, if any, a project would obscure. Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character would differ among individuals. The best available means for assessing what constitutes a visually acceptable standard for new structures are the City's Design Guidelines and policies adopted by the City Council. All future development on-site would be reviewed for consistency with applicable design guidelines and policies prior to issuance of planning permits.

As with all CEQA impacts, the effects of a project must be considered in the physical context of the project site and they must be compared to the existing conditions. The project is not proposed in a pristine natural environment or a rural area, but rather in an established urban community.

The proposed development on-site would be visible from Stevens Creek Boulevard, Albany Drive, Lopina Way (relocated), and the surrounding properties. The CEQA thresholds of significance state that a project would have a significant visual impact if it would have a substantial adverse effect on a scenic vista, substantially damage scenic resources (including, but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway), or substantially degrade the

existing visual character or quality of a project site or the surrounding area as viewed from public right-of-ways. While there are intermittent views of the peaks of the Santa Cruz and Diablo Mountains from Stevens Creek Boulevard, the project area is relatively flat and prominent views, other than buildings, are limited. There are no City, County, or State designated scenic vistas, highways, or other scenic resources within the project area.

The project area is currently developed with buildings ranging from one to three stories. As proposed, the project would demolish the existing buildings and construct two eight-story residential buildings, a six-story office building, and a five-level parking structure. The buildings on-site would range in height from 21.5 to 90 feet. While the proposed development may further block skyline views for a limited number of off-site residences, private views are not protected scenic resources under CEQA. It is not a significant environmental impact for a structure to be visible in an existing urban setting. All new structures, by their existence, change the appearance of their location and immediate setting.

The General Plan FEIR (as amended) concluded that new development and redevelopment allowed under the General Plan would alter the appearance of San José; and implementation of applicable policies and regulations (including the City's Design Guidelines) would avoid substantial degradation of the visual character of the City. The proposed development would alter the visual character of the project site compared to the existing conditions. The proposed buildings would, however, be comparable in massing and scale to some of the existing commercial/office and mixed-use buildings along the Stevens Creek corridor and consistent with planned growth within the Stevens Creek Boulevard Urban Village. As a result, the project would not degrade visual character of the area, and would not obscure any scenic vistas, damage scenic resources, or degrade the visual quality of the area. **(Less Than Significant Impact)**

3.1.2.4 *Light and Glare*

Development on the project site would be highly visible from Stevens Creek Boulevard and Albany Drive and the surrounding properties. New development on-site would increase light levels in the immediate project area.

The General Plan FEIR (as amended) concluded that while new development and redevelopment under the General Plan could result in new sources of nighttime light and daytime glare, implementation of adopted plans, and conformance with adopted policies, regulations, and the General Plan would avoid substantial light and glare impacts. Future development on-site under the proposed rezoning would comply with the aforementioned General Plan policies, the City's Design Guidelines for residential and commercial structures, and City Council Lighting Policy 4-3.³ As a result, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **(Less Than Significant Impact)**

3.1.3 **Conclusion**

Implementation of the proposed project would have a less than significant visual impact. **(Less Than Significant Impact)**

³ Policy 4-3 regulates outdoor lighting on private development projects. The policy provides regulations pertaining to how lights are directed, shielding of lights, and time of use for display lighting.

3.2 AIR QUALITY

The following discussion is based, in part, on an Air Quality Assessment prepared by *Illingworth & Rodkin, Inc.* in February 2018. The report can be found in Appendix A.

3.2.1 Environmental Setting

3.2.1.1 *Regulatory Framework*

Air Quality Overview

Federal, state, and regional agencies regulate air quality in the San Francisco Bay Area Air Basin, within which the proposed project is located. At the federal level, the US Environmental Protection Agency (EPA) is responsible for overseeing implementation of the federal Clean Air Act and its subsequent amendments. The California Air Resources Board (CARB) is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as “criteria pollutants”): particulate matter (PM), ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. “Attainment” status for a pollutant means that a given Air District meets the standard set by the EPA and/or CARB. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter (PM_{2.5}), nor does it meet state standards for respirable particulate matter (PM₁₀). The Bay Area is considered in attainment or unclassified for all other pollutants.

Toxic Air Contaminants and Fine Particulate Matter (Local Community Risks)

Besides criteria pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air; however, exposure to low concentrations over long periods can result in increased risk of cancer and/or adverse health effects. TACs are primarily regulated through state and local risk management programs. These programs are designed to eliminate, avoid, or minimize the risk of adverse health effects from exposures to TACs. A chemical becomes a regulated TAC in California based on designation by the California Office of Environmental Health Hazard Assessment (OEHHA). Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air and accounts for roughly 60 percent of the total cancer risk associated with TACs in the Bay Area. Other TACs found in urban air include lead, benzene and formaldehyde.

PM_{2.5} is a complex mixture of substances that includes elements such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood

smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), PM_{2.5} can lodge deeply into the lungs. According to the Bay Area Air Quality Management District (BAAQMD), PM_{2.5} is the air pollutant most harmful to the health of Bay Area residents.

Common stationary sources of TACs and PM_{2.5} include gasoline stations, dry cleaners, and diesel backup generators. The other more significant, common mobile source is motor vehicles on roadways and freeways. Unlike regional criteria pollutants, local risks associated with TACs and PM_{2.5} are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Bay Area Air Quality Management District

The BAAQMD is the agency primarily responsible for assuring the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. These ambient air quality standards are levels of contaminants which represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called “criteria” pollutants because the health and other effects of each pollutant are described in criteria documents. Table 3.2-1 identifies the major criteria pollutants, characteristics, health effects, and typical sources for the Bay Area.

Table 3.2-1: Major Criteria Pollutants			
Pollutant	Characteristics	Health Effects	Major Sources
Ozone	A highly reactive photochemical pollutant created by the action of sun light on ozone precursors. Often called photochemical smog.	<ul style="list-style-type: none"> - Eye Irritation - Respiratory function impairment 	The major sources of ozone precursors are combustion sources such as factories and automobiles, and evaporation of solvents and fuels.
Carbon Monoxide	Carbon monoxide is an odorless, colorless gas that is highly toxic. It is formed by the incomplete combustion of fuels.	<ul style="list-style-type: none"> - Impairment of oxygen transport in the bloodstream - Aggravation of cardiovascular disease - Fatigue, headache, confusion, dizziness - Can be fatal in the case of very high concentrations 	Automobile exhaust, combustion of fuels, combustion of wood in wood stoves and fireplaces.
Nitrogen Dioxide	Reddish-brown gas that discolors the air, formed during combustion.	<ul style="list-style-type: none"> - Increased risk of acute and chronic respiratory disease 	Automobile and diesel truck exhaust, industrial processes, and fossil-fueled power plants.
Sulfur Dioxide	Sulfur dioxide is a colorless gas with a pungent, irritating odor.	<ul style="list-style-type: none"> - Aggravation of chronic obstruction lung disease - Increased risk of acute and chronic respiratory disease 	Diesel vehicle exhaust, oil-powered power plants, and industrial processes.

Particulate Matter	Solid and liquid particles of dust, soot, aerosols and other matter that are small enough to remain suspended in the air for a long period of time.	- Aggravation of chronic disease and heart/lung disease symptoms	Combustion, automobiles, field burning, factories and unpaved roads. Also a result of photochemical processes.
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BAAQMD is also responsible for adopting and enforcing rules and regulations concerning air pollutant sources, issuing permits for stationary sources of air pollutants, inspecting stationary sources of air pollutants, responding to citizen complaints, monitoring ambient air quality and meteorological conditions, awarding grants to reduce motor vehicle emissions, conducting public education campaigns, and many other associated activities. BAAQMD has jurisdiction over much of the nine-county Bay Area, including Santa Clara.

National and State Ambient Air Quality Standards

The ambient air quality in a given area depends on the quantities of pollutants emitted within the area, transport of pollutants to and from the surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin. Air quality is described by the concentration of various pollutants in the atmosphere. The significance of the pollutant concentration is determined by comparing the concentration to an appropriate ambient air quality standard. The standards represent the allowable pollutant concentrations designed to ensure the public health and welfare are protected, while including a reasonable margin of safety to protect the more sensitive individuals in the population.

As required by the Federal CAA, the NAAQS have been established for six major air pollutants; carbon monoxide (CO), nitrogen oxides (NO_x), ozone (O₃), respirable particulate matter (PM₁₀), fine particulate matter (PM_{2.5}), sulfur oxides (SO_x), and lead (Pb). Pursuant to the California CAA, the State of California has also established ambient air quality standards. The CAAQS are generally more stringent than the corresponding Federal standards and incorporate additional standards for pollutants such as sulfates, hydrogen sulfide, vinyl chloride and visibility reducing particles. Both State and Federal standards are summarized in Table 3.2-2. The “primary” standards have been established to protect the public health. The “secondary” standards are intended to protect the nation’s welfare and account for adverse air pollutant effects on soil, water, visibility, materials, vegetation and other aspects of the general welfare. Because CAAQS are more stringent than NAAQS, CAAQS are used as the applicable standard in this analysis.

Pollutant	Averaging Time	California Standards	National Standards	
			Primary	Secondary
Ozone	1-hour	0.09 ppm	---	Same as primary
	8-hour	0.07 ppm	0.075 ppm	---
Carbon monoxide	1-hour	20 ppm	35 ppm	---
	8-hour	9.0 ppm	9.0 ppm	---

Nitrogen dioxide	1-hour	0.18 ppm	0.10 ppm	---
	Annual	0.03 ppm	0.053 ppm	Same as primary
Sulfur dioxide	1-hour	0.25 ppm	0.075 ppm	---
	3-hour	---	---	0.5 ppm
	24-hour	0.04 ppm	---	---
PM ₁₀	24-hour	50 µg/m ³	150 µg/m ³	Same as primary
	Annual	20 µg/m ³	---	---
PM _{2.5}	24-hour	---	35 µg/m ³	Same as primary
	Annual	12 µg/m ³	15 µg/m ³	Same as primary
Lead	Calendar Quarter	---	1.5 µg/m ³	Same as primary
	30-day average	1.5 µg/m ³	---	---

Source: California Air Resources Board, September 2010.

Regional Clean Air Plans

The BAAQMD and other agencies prepare clean air plans in response to the state and federal CAA. The City of San José also has General Plan policies to encourage development that reduces air quality impacts. In addition, BAAQMD has developed CEQA Guidelines to assist local agencies in evaluating and mitigating air quality impacts in CEQA documents. BAAQMD’s most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD’s long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

The 2017 CAP defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and GHGs. The proposed control strategy is designed to complement efforts to improve air quality and protect the climate that are being implemented by partner agencies at the State, regional, and local scale. The control strategy encompasses 85 individual control measures that describe specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

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

Envision San Jose 2040 General Plan

The General Plan includes the following air quality policies applicable to the proposed project.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to State and Federal standards. Identify and implement air emissions reduction measures.

Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-13.2: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

3.2.1.2 *Existing Conditions*

Air quality is determined by the concentration of various pollutants in the atmosphere. Units of concentration are expressed in parts per million (ppm) or micrograms per kilograms ($\mu\text{g}/\text{kg}$).

The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin. The major determinants of transport and dilution are wind, atmospheric stability, terrain, and for photochemical pollutants, sun light.

San José is located in the southern portion of the San Francisco Bay Area Air Basin. The proximity of this location to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. Northwest winds and northerly winds are most common in the project area, reflecting the orientation of the Bay and the San Francisco Peninsula. Winds from these directions carry pollutants released by autos and factories from upwind areas of the Peninsula toward Santa Clara, particularly during the summer months. On average, winds are lightest in fall and winter. Every year in fall and winter there are periods of several days when winds are very light and local pollutants can build up.

Pollutants can be diluted by mixing in the atmosphere both vertically and horizontally. Vertical mixing and dilution of pollutants are often suppressed by inversion conditions, when a warm layer of air traps cooler air close to the surface. During the summer, inversions are generally elevated above ground level, but are present over 90 percent of the time in both the morning and afternoon. During the winter, surface based inversions dominate in the morning hours, but frequently dissipate by afternoon.

Topography can restrict horizontal dilution and mixing of pollutants by creating a barrier to air movement. The South Bay has significant terrain features that affect air quality. The Santa Cruz Mountains and Diablo Range on either side of the South Bay restrict horizontal dilution, and this alignment of the terrain also channels winds from the north to south, carrying pollution from the northern Peninsula toward San José.

The combined effects of moderate ventilation, frequent inversions that restrict vertical dilution and terrain that restrict horizontal dilution give Santa Clara a relatively high atmospheric potential for pollution compared to other parts of the San Francisco Bay Air Basin and provide a high potential for transport of pollutants to the east and south.

Air quality studies generally focus on five criteria pollutants that are most commonly measured and regulated: Carbon Monoxide (CO), Ozone (O₃), Nitrogen Dioxide (NO₂), and Particulate Matter (PM₁₀, and PM_{2.5}). In Santa Clara County, O₃, PM₁₀, and PM_{2.5} are the pollutants of greatest concern since measured air pollutant levels exceed the state and federal air quality standards concentrations at times.

Carbon Monoxide

Carbon monoxide, a colorless and odorless gas, interferes with the transfer of oxygen to the brain. It can cause dizziness and fatigue, and can impair central nervous system functions. Highest CO concentrations measured in the South Bay Area have been well below the national and State ambient standards. Since the primary sources of CO are cars and trucks, highest concentrations would be found near congested roadways that carry large volumes of traffic. Carbon monoxide emitted from a vehicle is highest near the origin of a trip and considerably lower once the automobile is warmed up (usually five to ten minutes into a trip). This varies for vehicles of different ages, with older cars requiring a longer warm up period.

Ozone

While O₃ serves a beneficial purpose in the upper atmosphere (stratosphere) by reducing ultraviolet radiation, when it reaches elevated concentrations in the lower atmosphere it can be harmful to the human respiratory system and to sensitive species of plants. Ozone concentrations build to peak levels during periods of light winds, bright sunshine, and high temperatures. Short-term O₃ exposure can reduce lung function in children, make persons susceptible to respiratory infection, and produce symptoms that cause people to seek medical treatment for respiratory distress. Long-term exposure can impair lung defense mechanisms and lead to emphysema and chronic bronchitis. Sensitivity to O₃ varies among individuals, but about 20 percent of the population is sensitive to O₃, with exercising children being particularly vulnerable. Ozone is formed in the atmosphere by a complex series of photochemical reactions that involve “ozone precursors” that are two families of pollutants: oxides of nitrogen (NO_x) and reactive organic gases (ROG). Nitrogen oxides and ROG are emitted from a variety of stationary and mobile sources. While NO₂, an oxide of nitrogen, is another criteria pollutant itself, ROGs are not in that category, but are included in this discussion as O₃ precursors. The U.S. EPA recently established a new more stringent standard for O₃ of 0.75 ppm for 8-hour exposures, based on a review of the latest new scientific evidence.

Nitrogen Dioxide

Nitrogen dioxide, a reddish-brown gas, irritates the lungs. Exposure to NO₂ can cause breathing difficulties at high concentrations. Clinical studies suggest that NO₂ exposure to levels near the current standard may worsen the effect of allergens in allergic asthmatics, especially in children. Similar to O₃, NO₂ is not directly emitted, but is formed through a reaction between nitric oxide (NO) and atmospheric oxygen. Nitric oxide and NO₂ are collectively referred to as NO_x and are major contributors to O₃ formation. Nitrogen oxides are emitted from combustion of fuels, with higher rates at higher combustion temperatures. Nitrogen dioxide also contributes to the formation of PM₁₀ (see discussion of PM₁₀ below). Monitored levels in the Bay Area are well below ambient air quality standards.

PM₁₀ and PM_{2.5}

Respirable particulate matter (PM₁₀), and fine particulate matter (PM_{2.5}) consist of particulate matter that is ten microns or less in diameter and 2.5 microns or less in diameter, respectively, and represent fractions of particulate matter that can be inhaled and cause adverse health effects. Both PM₁₀ and PM_{2.5} are health concerns, particularly at levels above the Federal and State ambient air quality standards. Scientific studies have suggested links between fine particulate matter and numerous health problems including asthma, bronchitis, and acute and chronic respiratory symptoms such as shortness of breath and labored breathing. Children are more susceptible to the health risks of PM_{2.5} because their immune and respiratory systems are still developing.

Both PM₁₀ and PM_{2.5} pose a greater health risk than larger particles because these tiny particles can penetrate the human respiratory system's natural defenses and damage the respiratory tract, increasing the number and severity of asthma attacks, cause or aggravate bronchitis and other lung diseases, and reduce the body's ability to fight infections. Whereas larger particles tend to collect in the upper portion of the respiratory system, PM_{2.5} is miniscule and can penetrate deeper into the lungs and damage lung tissues. Suspended particulates also damage and discolor surfaces on which they settle, as well as produce haze and reduce regional visibility. Most stations in the Bay Area reported exceedances of the State standard on the same fall/winter days as reported in the South Bay. This indicates a regional air quality problem.

The primary sources of these pollutants are wood smoke and local traffic. Meteorological conditions that are common during fall/winter days produce calm winds and strong surface-based inversions that trap pollutants near the surface. The high levels of PM₁₀ result in not only health effects, but also reduced visibility.

Air Monitoring Data

Air quality in the region is controlled by the rate of pollutant emissions and meteorological conditions. Meteorological conditions, such as wind speed, atmospheric stability, and mixing height may all affect the atmosphere's ability to mix and disperse pollutants. Long-term variations in air quality typically result from changes in air pollutant emissions, while frequent, short-term variations result from changes in atmospheric conditions. The San Francisco Bay Area is considered to be one of the cleanest metropolitan areas in the country with respect to air quality. BAAQMD monitors air

quality conditions at over 30 locations throughout the Bay Area. There are several BAAMQD monitoring stations near Santa Clara.

As shown in Table 3.2-3, violations of State and Federal standards at the downtown San José monitoring station (the nearest monitoring station to the project site) during the 2013-2015 period (the most recent years for which data is available) include high levels of O₃, PM₁₀, and PM_{2.5}.⁴ Violations of the CO standard have not been recorded since 1992.

Table 3.2-3: Ambient Air Quality Standards Violations and Highest Concentrations				
Pollutant	Standard	Days Exceeding Standard		
		2014	2015	2016
SAN JOSÉ STATION				
Ozone	State 1-hour	0	0	0
	Federal 8-hour	0	2	0
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM ₁₀	Federal 24-hour	0	0	0
	State 24-hour	1	1	0
PM _{2.5}	Federal 24-hour	2	2	0

The Federal CAA and the California CAA of 1988 require that CARB, based on air quality monitoring data, designate portions of the State where Federal or State ambient air quality standards are not met as “nonattainment areas”. Because of the differences between the Federal and State standards, the designation of “nonattainment area” is different under the Federal and State legislation. Under the California CAA, Santa Clara County is a nonattainment area for O₃ and PM₁₀. The County is either in attainment or unclassified for other pollutants. Under the Federal CAA, the entire Bay Area region is classified as nonattainment for the 24-hour PM_{2.5} standard. The U.S. EPA grades the region as in attainment or unclassified for all other air pollutants, including PM₁₀.

Toxic Air Contaminants

Another group of substances found in ambient air are TACs under the California CAA. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, State, and Federal level.

Particulate matter from diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). Diesel is of particular concern since it can be distributed over large regions, thus leading to widespread public exposure. CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM.

⁴ PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.

Sensitive Receptors

Sensitive receptors are groups of people that are more susceptible to pollutant exposure (i.e., children, the elderly, and people with illnesses). Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, parks, and places of assembly.

The nearest sensitive receptors to the project are the residences located south of the project site.

3.2.2 Air Quality Impacts

3.2.2.1 *Thresholds of Significance*

For the purposes of this EIR, an air quality impact is considered significant if the project would:

- Conflict with or obstruct implementation of the applicable air quality plan;
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation;
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors);
- Expose sensitive receptors to substantial pollutant concentrations; or
- Create objectionable odors affecting a substantial number of people.

3.2.3 CEQA Thresholds of Significance

Impacts from the Project

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The City of San José has carefully considered the thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and PM_{2.5}. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.2-4 below.

Table 3.2-4: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO _x	54	54	10
PM ₁₀	82 (exhaust)	82	15
PM _{2.5}	54 (exhaust)	54	10

Table 3.2-4: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
Fugitive Dust (PM ₁₀ /PM _{2.5})	BMPs	None	None
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	<ul style="list-style-type: none"> • Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient PM_{2.5} increase: > 0.3 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor] 	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	<ul style="list-style-type: none"> • Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient PM_{2.5} increase: > 0.8 μ/m³ [Zone of influence: 1,000-foot radius from property line of source or receptor] 	
Sources: BAAQMD CEQA Thresholds Options and Justification Report (2009) and BAAQMD CEQA Air Quality Guidelines (dated May 2012).			

Impacts to the Project

The California Supreme Court issued an opinion that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards (i.e., impacts to a project) unless the project would exacerbate existing environmental hazards.⁵ Specific circumstances where CEQA does require the analysis of exposing new populations to environmental hazards include the location of development near airports, schools near sources of toxic contamination, and certain infill and workforce housing.⁶ The proposed project does not fall under any of these situations.

Nevertheless, the City of San José has policies that address existing air quality conditions affecting a proposed project, which are also discussed below. The criteria used by the City for determining whether new receptors would be affected are the same as those listed for Project Health Risk and Cumulative Health Risk in Table 3.2-4, above.

⁵ California Supreme Court published opinion in *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478), filed December 17, 2015.

⁶ Although CEQA does not generally require an evaluation of the effects of existing hazards on future users of the proposed project, it calls for such an analysis in several specific contexts involving certain airport (Public Resources Code Section 21096) and school construction projects (Public Resources Code Section 21151.8), and some housing development projects (Public Resources Code subsection 21159.21, subs.(f), (h), 21159.22, subs. (a), (b)(3), 21159.23, subd. (a)(2)(A), 21159.24, subd. (a)(1), (3), 21155.1, subd. (a)(4), (6)).

3.2.3.1 Consistency with Plans and Policies

Bay Area 2017 Clean Air Plan

BAAQMD’s most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely-related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the State of California, the 2017 CAP lays the groundwork for BAAQMD’s long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The consistency of the proposed project with the 2017 CAP is primarily a question of the consistency with the population/employment assumptions utilized in developing the 2017 CAP, which were based on ABAG Projections.

The 2017 CAP includes about 85 control measures that are intended reduce air pollutant emissions in the Bay Area either directly or indirectly. These control measures are divided into nine categories that include:

- Stationary Sources;
- Transportation;
- Energy;
- Agriculture;
- Water;
- Waste;
- Buildings;
- Natural and Working Lands; and
- Super-GHG Pollutants

The consistency of the project is evaluated with respect to each set of applicable control measures in Table 3.2-5 below.

Table 3.2-5: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
<i>Transportation Measures</i>		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities.	The project would include bicycle parking consistent with City standards. In addition, the project site has been designed to be pedestrian oriented with ground floor retail uses. The existing pedestrian facilities would provide future occupants with a safe connection between the project site and the surrounding land uses. Lopina Way would be vacated and replaced with a landscaped promenade, which would also provide existing residences to the south and future site occupants

Table 3.2-5: Bay Area 2017 Clean Air Plan Applicable Control Measures		
Control Measures	Description	Project Consistency
		with a safe connection through the project site and to the surrounding land uses. The project is consistent with this measure.
<i>Energy Measures</i>		
Urban Heat Island Mitigation	Develop and urge adoption of a model ordinance for “cool parking” that promotes the use of cool surface treatments for new parking facilities, as well existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multifamily housing.	The project would be required to comply with the City’s Green Building Ordinance and the most recent California Building Code which would increase building efficiency over standard construction. Currently, there is no specific proposals for cool roofs or cool paving, but the project would result in an overall increase in landscaping and reduction in surface parking on-site. Therefore, the project is generally consistent with this control measure.
<i>Natural and Working Lands Measures</i>		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District’s technical guidance, best management practices for local plans, and CEQA review.	The project would be required to adhere to the City’s tree replacement policy. Therefore, the project is consistent with this control measure.

The project includes transportation, energy, and natural and working lands measures and is consistent with the population projections in the 2017 CAP. The project is also consistent with the City’s General Plan. The project by itself, therefore, would not result in a significant impact related to consistency with the Bay Area 2017 CAP. **(Less Than Significant Impact)**

Envision San José 2040 General Plan

The proposed project includes mitigation measures, Best Management Practices (BMPs), and Standard Permit Conditions to reduce and/or avoid significant emissions impacts. Therefore, the project is consistent with Policies MS-10.1, MS-10.2, MS-11.1, MS-13.1, and MS-13.2.

3.2.3.2 Impacts to Regional and Local Air Quality

A detailed air quality assessment was completed to address operational air quality impacts from the proposed increase in development on-site. Full operation of the site was assumed to occur in 2021.

Table 3.2-6 shows estimated daily criteria pollutant air emissions from operation of the proposed project based upon a detailed air analysis using CalEEMod.

Table 3.2-6: Operational Criteria Pollutant Emissions from the Project				
Description	ROG	NO_x	PM₁₀	PM_{2.5}
Annual Project Emissions (tons per year)	5.87	7.07	5.46	1.54
Existing Emissions (tons per year)	<1.02>	<1.34>	<1.01>	<0.29>
Total Net Project Emissions (tons per year)	4.85	5.73	4.45	1.25
BAAQMD Thresholds	10	10	15	10
Total Project Emissions (pounds per day)	26.6	31.4	24.4	6.8
BAAQMD Thresholds	54	54	82	54
Impact	No	No	No	No

As shown in Table 3.2-6, the average emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust associated with the proposed project would not result in criteria pollutant emissions above the established thresholds. **(Less Than Significant Impact)**

Carbon monoxide emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with large volumes of traffic have the greatest potential to cause high-localized concentrations of CO. Air pollutant monitoring data indicates that CO has been below state and federal standards in the Bay Area since the early 1990s. As a result, the region is deemed in attainment for the standard. The highest measured level over any eight-hour averaging period during the last three years in the Bay Area is less than 3.0 ppm, compared to the ambient air quality standard of 9.0 ppm. Intersections carrying project traffic would have traffic volumes less than the BAAQMD screening criteria and would not cause a violation of an ambient air quality standard. **(Less Than Significant Impact)**

3.2.3.3 *Construction Impacts*

Criteria Pollutant Emissions

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (an air toxic contaminant due to its potential to cause cancer), TACs from all vehicles, and PM_{2.5}, which is a regulated air pollutant. The proposed development would exceed the BAAQMD construction screening criteria; therefore, a detailed air quality assessment was completed to address construction air quality impacts from the proposed project.

Table 3.2-7 shows an estimate of daily air emissions from construction of the proposed project based upon a detailed air analysis using CalEEMod. The modeling scenario assumed that the proposed project would be built over 25 months. Consistent with guidance provided by BAAQMD regarding analysis of phased projects, the analysis of construction emissions assumes all projects under construction at one time averaged over a 25 month period.

Table 3.2-7: Average Daily Construction Emissions from the Project				
Description	ROG	NO_x	PM₁₀	PM_{2.5}
2018 (tons)	0.25	2.99	0.10	0.09
2019 (tons)	3.28	7.30	0.21	0.20
2020 (tons)	3.65	0.75	0.02	0.02
Total Construction Emissions (tons)	7.18	11.04	0.33	0.31
Average Daily Emissions (pounds per day)	26.1	40.1	1.2	1.1
BAAQMD Thresholds (pounds per day)	54	54	82	54
Impact	No	No	No	No

Construction of the project would involve demolition of five buildings and surface parking lots, excavation for the underground parking, site grading, trenching, paving, building construction, and architectural coating. As shown in Table 3.2-7, the emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust associated with construction of the project would not exceed the BAAQMD significance thresholds and, therefore, would not result in a significant impact from construction emissions.

Construction activities on-site would, however, generate dust and other particulate matter that could temporarily impact nearby sensitive receptors. The amount of dust generated would be highly variable and is dependent on the size of the area disturbed at any given time, the amount of activity, soil conditions, and meteorological conditions. Sensitive receptors in the project vicinity could be adversely affected by dust generated during construction activities, particularly PM_{2.5} which is a known TAC. The project will be required to implement BAAQMD dust control measures as a condition of project approval, as outlined below.

Standard Permit Conditions

All construction phases of the proposed project shall implement the following Best Management Practices that are required of all projects:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure

Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the above described measures, project construction would not emit significant levels of criteria air pollutants or dust that would affect local and regional air quality or nearby off-site sensitive receptors. **(Less Than Significant Impact)**

Community Risk Impacts - Construction

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust which is also a known TAC. The nearest sensitive receptors to the project site are the residences to the east and south of the site.

A health risk assessment of construction activities was completed to evaluate emissions of diesel particulate matter (DPM) and associated health risks to the nearby residential areas. To quantify the effects of DPM on the nearby sensitive receptors, construction period exhaust emissions were computed using the CalEEMod model. The U.S. EPA AERMOD dispersion model was used to predict concentrations of DPM at existing residences in the vicinity of the project site. The cancer risk calculations were based on applying the BAAQMD recommended age sensitivity factors to the DPM exposures. Age-sensitivity factors reflect the greater sensitivity of infants and small children to cancer causing TACs. The number and types of construction equipment and diesel vehicles, along with the anticipated length of their use for different phases of construction were based on site-specific construction activity schedules provided by the project applicant.

Neither BAAQMD nor the City of San José have significance criteria for construction TAC impacts. As a result, the BAAQMD criteria for operational TAC impacts in the 2017 CEQA Air Quality Guidelines are used by the City of San José. Based on these guidelines, a project would result in a significant construction TAC or PM_{2.5} impact if:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual average PM_{2.5}.



The sensitive receptor locations that could be affected by project construction are shown in the adjacent figure. The maximum exposure from construction emissions impact (MEI) was found to occur at the apartment building immediately south of the project site.

The maximum incremental residential child cancer risk was calculated to be 49.4 cancer cases per million and the adult cancer risk was calculated to be 0.9 cancer cases per million.

While the adult cancer risk is below the BAAQMD threshold of 10 cancer cases per million, the child exposure is not. Because the child cancer risk exceeds 10 cases per million, the proposed project could have a significant community risk impact on nearby sensitive receptors during construction activities. The maximum annual $PM_{2.5}$ concentration was calculated to be 0.26 micrograms per cubic meter ($\mu g/m^3$), which does not exceed the BAAQMD significance threshold of 0.3 $\mu g/m^3$.

Impact AIR-1: Construction of the proposed project would result in a temporary community risk impact from toxic air contaminants. **(Significant Impact)**

Mitigation and Avoidance Measures

In addition to the dust control measures previously identified, the project applicant shall be required to implement the following mitigation measures to reduce construction related TAC impacts:

MM AIR-1.1: All diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.

MM AIR-1.2: All diesel-powered portable equipment (i.e., air compressors and aerial lifts) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

MM AIR-1.3: Prior to the issuance of any demolition, grading, and/or building permits, the project applicant shall submit to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement a construction operations plan that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth in these mitigation measures.

Implementation of the dust control measures previously identified would reduce exhaust emissions five percent and dust emissions by 50 percent. With the identified mitigation measure, the maximum excess residential child cancer risk would be reduced to 5.8 per million. As a result, the required mitigation measure and BMPs will reduce the temporary construction emissions impact to a less than significant level. **(Less Than Significant with Mitigation)**

3.2.3.4 Odors

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, odors would be localized and are not likely to affect people off-site. The project would not result in long-term odors after construction. **(Less Than Significant Impact)**

3.2.4 Existing Air Quality Conditions Affecting the Project

On December 17, 2015, the California Supreme Court issued an opinion in *CBIA vs. BAAQMD* holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are also discussed below.

Community Risk Impacts

BAAQMD recommends that projects be evaluated for community risk when they are located within 1,000 feet of stationary permitted sources of TACs, and/or within 1,000 feet of freeways and high traffic volume roadways (10,000 average daily trips [ADT] or more). Traffic on high volume roadways is a source of TAC emissions that may adversely impact sensitive receptors in close proximity the roadway. A review of the project area indicates that traffic on Saratoga Avenue and Stevens Creek Boulevard exceeds 10,000 trips per day. There are no other substantial source of mobile TAC emissions within 1,000 feet of the project site.

BAAQMD provides Roadway Screening Analysis Tables that are used to assess potential cancer risk and annual PM_{2.5} concentrations from surface streets for each Bay Area county. The significance criteria used by the City of San José are that a project would result in a significant TAC or PM_{2.5} exposure if:

- An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) Hazard Index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter (µg/m³) annual average PM_{2.5}.

Community health risk assessments typically look at all substantial sources of TACs that can affect sensitive receptors that are located within 1,000 feet of a project site. Both mobile (vehicular) source and stationary sources of TACs can result in significant TAC or PM_{2.5} exposure.

The vehicular traffic on Stevens Creek Boulevard and Kiely Boulevard could result in elevated community risk levels for future residents of the project. Stationary sources identified by BAAQMD

revealed two sources within 1,000 feet of the project site. The location of these sources and the level of community risk associated with them is shown in Table 3.2-8.

Table 3.2-8: Mobile and Stationary Source Community Risk Levels			
Source	Cancer Risk (per million)	Annual PM2.5 Concentration (µg/m3)	Hazard Index
Kiley Boulevard	1.9	0.28	<0.01
Stevens Creek Boulevard	0.6	0.02	<0.03
Plant G4436 – Unocal #254832 4185 Stevens Creek Boulevard	0.4	0.00	<0.01
Plant 3721 – Smythe European 4500 Stevens Creek Boulevard	1.6	<0.01	<0.01
Total:	4.5	<0.31	<0.06
BAAQMD Threshold – Single Source	>10.0	>0.3	>1.0
BAAQMD Threshold – Cumulative Sources	>100	>0.3	>10.0
Threshold Exceeded?	No	No	No

As summarized in the table, future residents of the proposed project would not be exposed to TACs or PM_{2.5} levels in excess of BAAQMD standards; therefore, the project is consistent with General Plan Policy MS-11.1 as it relates to mobile and stationary sources of TACs.

3.2.5 Conclusion

With implementation of the identified mitigation measure and dust control measures, construction of the proposed project would have a less than significant air quality impact. **(Less Than Significant Impact With Mitigation)**

The proposed project would not conflict with or obstruct implementation of the 2017 CAP and would have a less than significant operational emissions impact. Operation of the proposed project would not generate excessive odors. **(Less Than Significant Impact)**

3.3 BIOLOGICAL RESOURCES

The following discussion is based, in part, on an arborist report prepared by *HMH Engineers* in July 2017. The report can be found in Appendix B of this EIR.

3.3.1 Environmental Setting

3.3.1.1 *Regulatory Setting*

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are identified as rare, threatened or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodlands) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complimentary to various Federal, State, and local laws and regulations that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

Special Status Species

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are identified as rare, threatened or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodlands) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complimentary to various Federal, State, and local laws and regulations that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

Special status species/habitats are not present on-site, although raptors (birds of prey) and other birds may use the trees on-site for nesting or foraging. Raptors and other migratory birds are protected by the Federal Migratory Bird Treaty Act (MBTA) (16 U.S.C. Section 703, et seq.).

Migratory Bird and Birds of Prey Protections

Federal and State laws protect most bird species. The Federal Migratory Bird Treaty Act prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, bird nests, and eggs.

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code. The code states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of

any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFW.

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

The 9.9-acre project site is located within the Habitat Plan study area and has a land cover designation of *Urban-Suburban*.⁷ *Urban-Suburban* land includes areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as one or more structures per 2.5 acres.

Envision San José 2040 General Plan

The General Plan includes the following policies applicable to the proposed project.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Policy CD-1.24: Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds’ nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

⁷ Santa Clara Valley Habitat Agency. Santa Clara Valley Habitat Agency Geobrowser. Accessed: January 20, 2017. Available at: <http://www.hcpmaps.com/habitat/>.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

City of San José Tree Ordinance

Ordinance-sized trees, heritage trees, and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 4.5 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance due to history, girth, height, species, or unique quality can be designated as a Heritage Tree due to its size, history, unusual species, or unique quality. It is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

3.3.1.2 Existing Conditions

Overview of Habitats Found on the Project Site

The project site is fully developed with five commercial buildings and large surface parking lots. There is landscaping, including trees and lawn areas, along the perimeters of the buildings and site, as well as trees within the parking lots. The site is surrounded by commercial and residential development. Due to the extensive development in the project area, there are no native habitats on the project site.

Special Status Species

Special status species are those plants and animals listed under the State and Federal Endangered Species Acts (including candidate species); plants listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the California Department of Fish and Wildlife. Most special status animal species occurring in the Bay Area use habitats that are not present on the project site. Salt marsh, freshwater marsh, and serpentine grassland habitats are not present on the project site. Since the native vegetation of the project area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with the urbanized area.

Trees

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. Because redevelopment is proposed, a tree survey was completed to document and evaluate the site’s existing trees.

There are a total of 240 trees on the project site, as shown below in Table 3.3-1. Fifteen coast redwood trees, which are native to the area, are present on-site. The remaining trees are not native to the San José area. In addition to the 13 coast redwoods, the site has 76 crape myrtles, 53 American sweet gums, 28 London planes, 24 shamel ash, 15 southern magnolias, 11 canary island pines, nine Japanese maple, four Victorian boxes, three bay laurels, one pin oak, one raywood ash, one sugar maple, and one valley oak. Sixty-nine of the trees are ordinance-sized (defined as trees with a circumference of 56 inches or greater measured at a height of 24 inches above grade). The location of trees is shown on Figure 3.3-1.

Table 3.3-1: Tree Survey				
Species	Diameter			Total No. of Trees
	0-12.0 inches	12.1-18 inches	Greater than 18 inches	
American sweet gum	4	19	30	53
Bay laurel	2	1	0	3
Canary island pine	3	2	6	11
Coast redwood*	0	0	13	13
Crape myrtle	76	0	0	76
Japanese maple	7	2	0	9
London plane	25	3	0	28
Pin oak	1	0	0	1
Raywood ash	1	0	0	1
Shamel ash	1	5	18	24
Southern magnolia	7	8	0	15
Sugar maple	1	0	0	1
Valley oak	0	0	1	1
Victoria box	4	0	0	4
Note: * denotes native trees				



LOCATIONS OF TREES

FIGURE 3.3-1

Based on the tree survey, three trees are in poor health or have significant structural defects that cannot be mitigated. In addition, 206 trees are in moderate health or are in somewhat declining health and/or exhibit structural defects that cannot be abated with treatment. Only 31 trees, none of which are native, were considered to be in good health, structurally stable, or have the potential for longevity on-site.

3.3.2 Biological Resources Impacts

3.3.2.1 *Thresholds of Significance*

For the purposes of this EIR, a biological resource impact is considered significant if the project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS);
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS;
- 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?
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

3.3.2.2 *Consistency with Plans and Policies*

The project includes mitigation measures to reduce impacts to migratory birds and to avoid the loss of active nests during construction. In addition, the project will be required to replace trees removed on-site consistent with City standards and implement tree protection measures during construction to avoid loss or damage of trees not slated for removal. Therefore, the project is consistent with Policies CD-1.23, CD-1.24, ER-5.1, ER-5.2, MS-21.4, MS-21.5, and MS-21.6.

3.3.2.3 *Impacts to Special Status/Protected Vegetation, Habitats, and Wildlife*

Because of the history of development on-site and in the area, no natural or sensitive habitats such as riparian, wetland or aquatic exist on or adjacent to the site that would support endangered, threatened, or special status wildlife species. The General Plan FEIR (as amended) concluded that impacts to developed habitats resulting from development under the General Plan would be less than significant because of their abundance within the region and State, and the relatively low value of these habitats for biological resources compared to more natural habitats. For these reasons, the proposed project would have a less than significant impact on sensitive natural communities. **(Less Than Significant Impact)**

Given the project site and surrounding land uses are located in an urban environment, the site is not a designated wildlife movement corridor or a native wildlife nursery site. The proposed project would, therefore, not significantly impact the movement of wildlife species through the area or impede the use of nursery sites. **(Less Than Significant Impact)**

3.3.2.4 *Impacts of Project on Protected Raptors and Migratory Birds*

Raptors and/or migratory birds could be impacted by the loss of mature trees on or adjacent to the site that provide nesting and/or foraging habitat. The project would be required to plant replacement trees, in accordance with the City's Tree Ordinance.

Migratory birds and nesting raptors are protected under the Migratory Bird Treaty Act and the California Department of Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance.

Construction activities, including equipment noise and tree removal, may result in the loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.

Impact BIO-1: Construction activities associated with the proposed project could result in an impact to nesting migratory birds due to the loss of fertile eggs or nest abandonment. **(Significant Impact)**

Mitigation and Avoidance Measures

In conformance with the CDFW, MBTA, and General Plan Policies ER-5.1 and ER-5.2, the following mitigation measures are included to reduce impacts to raptors and migratory birds during construction:

MM BIO-1.1: The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive).

MM BIO-1.2: If it is not possible to schedule demolition and construction activities outside of the breeding season (September 1st to January 31st inclusive), pre-construction surveys for nesting birds following the California Department of Fish and Wildlife (CDFW) bird survey protocols shall be completed by a qualified ornithologist to ensure that no nests are disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, shall determine the extent of a construction-free buffer zone to be established around the nest,

typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City’s Supervising Environmental Planner.

With implementation of the proposed mitigation, the project would have a less than significant impact on raptors and other migratory birds. **(Less Than Significant Impact With Mitigation)**

3.3.2.5 Impacts of Project on Trees

As stated previously, there are 69 ordinance-sized trees (including 13 native coast redwood trees) on the project site. The remaining 171 trees are non-ordinance-sized trees. This analysis conservatively assumes all 240 trees on-site would be removed. The impact to the urban forest resulting from the removal of the trees would be offset by the planting of replacement trees on-site, in conformance with General Plan Policies MS-21.4, MS-21.5, and MS-21.6, and SJMC Title 13.

Consistent with the General Plan, trees removed as a result of the project would be required to be replaced or mitigated in accordance with all applicable laws, policies or guidelines, including:

- City of San José Municipal Code
 - Section 13.28 (Street Trees)
 - Section 13.32 (Tree Protection Controls)
- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

Table 3.3-2: Tree Replacement Ratios				
Circumference of Tree to be Removed⁸	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 increase or more	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 18-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.				

In accordance with City policy, tree replacement would be implemented as shown in Table 3.3-2. Since all 240 trees on-site would be removed, 13 trees would be replaced at a 5:1 ratio, 94 trees would be replaced at a 4:1 ratio, 55 trees would be replaced at a 2:1 ratio, and the

remaining 78 trees would be replaced at a 1:1 ratio. As mentioned previously there are 13 native trees on-site. The total number of replacement trees required to be planted would be 629 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

⁸ As measured at 4.5 feet above the ground level.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will 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 may be increased to 24-inch box and count as two replacement trees.
- Replacement tree plantings may be accommodated at an alternative site(s). An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes. However, any alternatively proposed site will be pursuant to agreement with the Director of the Department of Planning, Building and Code Enforcement.
- A donation may be made to Our City Forest or similar organization for in-lieu tree planting in the community. Such donation will be equal to the cost of the required replacement trees, including associated installation costs, for off-site tree planting in the local community. A receipt for any such donation will be provided to the City of San José Planning Project Manager prior to issuance of a grading permit.

3.3.2.6 *Habitat Conservation Plan*

The 9.9-acre project site is located within the Habitat Plan study area and has a land cover designation of *Urban-Suburban*.

Private development in the plan area is subject to the HCP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;
- The activity is described in Section 2.3.2 *Urban Development* or in Section 2.3.7 *Rural Development*;⁹ and
- In Figure 2-5 (of the HCP), the activity is located in an area identified as “Private Development is Covered,” OR

The activity is equal to or greater than 2 acres AND the project is located in an area identified as “Rural Development Equal to or Greater than 2 Acres is Covered,” or “Urban Development Equal to or Greater than 2 Acres is Covered” OR

The activity is located in an area identified as “Rural Development is not Covered” but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The HCP addresses the issue of nitrogen deposition. Non-point source emissions, primarily from automobiles, emit nitrogen compounds into the air. These compounds settle and are deposited into the soil. The serpentine soils in San José are highly susceptible to increases in nitrogen. Serpentine soils tend to be nutrient poor and nitrogen deposition artificially fertilizes serpentine soils, which

⁹ Covered activities in urban areas include residential, commercial, and other types of urban development within the cities of Gilroy, Morgan Hill, and San Jose planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in “pockets” of unincorporated land inside the cities’ planning limited of urban growth).

facilitates the spread of invasive plant species. Non-native annual grasses grow rapidly, enabling them to out-compete serpentine species. The displacement of these species, and subsequent decline of several federally-listed species, including the Bay Checkerspot Butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County (the last remaining population of butterflies). Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentines, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The invasion of native grasslands by invasive and/or non-native species is now recognized as one of the major causes of the decline of the Bay Checkerspot Butterfly. Increases in regional traffic could increase nitrogen deposition in south San José.

The project is subject to the requirements of the HCP because 1) the project site is above two acres in size, 2) the project would require discretionary approval by the City, and 3) the project is consistent with activity described in Section 2.3.2 of the HCP.

Standard Permit Conditions

- The project applicant would be required to submit the Santa Clara Valley Habitat Plan Application for Private Project form to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement for approval prior to the issuance of a grading permit.
- The project shall pay all applicable fees including the nitrogen deposition fee, and comply with all applicable conditions prior to issuance of any grading permits. The project applicant shall submit a SCVHP Coverage Screening Form or Nitrogen Deposition Only Application Form (if no land cover fees apply) to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and shall complete subsequent forms, reports, and/or studies as needed.

Because the project would be required to comply with the requirements of the HCP, the project would have a less than significant impact. **(Less Than Significant Impact)**

3.3.3 **Conclusion**

Implementation of the proposed mitigation measures would reduce impacts to raptors and other migratory birds. The project will have a less than significant impact on other wildlife species, trees, and vegetation. **(Less Than Significant With Mitigation)**

3.4 CULTURAL RESOURCES

The following analysis is based, in part, on a cultural resources literature review completed by *Holman & Associates* in July 2017. A copy of this report is on file at the City of San José Department of Planning, Building and Code Enforcement.

3.4.1 Environmental Setting

3.4.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the U.S. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects and districts that possess historic, architectural, engineering, archaeological or cultural significance. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be “associated with an important historic context”, and second the property must retain integrity of those features necessary to convey its significance.

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

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

State

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California’s historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, Section 5024.1(a)). The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and state significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

State Regulations Regarding Cultural and Paleontological Resources

Archaeological, paleontological, and historical sites are protected by a number of State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods.

Both state law and County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a “most likely descendant” must also be notified.

Assembly Bill 52 - Tribal Cultural Resources

A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. It also must be either on or eligible for the California Historic Register, a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. Assembly Bill 52 (AB 52), which amendment the Public Resources Code, requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any tribe, to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency’s environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Paleontological Resources Regulations

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

City of San José

In accordance with the City of San José’s Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has “special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature” and is one of the following resource types:

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

The ordinance defines the term “historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature” as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;
2. Identification as, or association with, a distinctive, significant or important work or vestige:
 - a. Of an architectural style, design or method of construction;
 - b. Of a master architect, builder, artist or craftsman;
 - c. Of high artistic merit;
 - d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
 - e. That has yielded or is substantially likely to yield information of value about history, architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or
 - f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.
3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

The ordinance also provides a designation of a district: “a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

Any potentially historic property can be nominated for designation as a city landmark by the City Council, the Historic Landmarks Commission or by application of the owner or the authorized agent of the owner of the property for which designation is requested.

Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission established a quantitative process, based on the work of Harold Kalman (1980), by which historical resources are evaluated for varying levels of significance. This historic evaluation criterion, and the related Evaluation Rating Sheets, is utilized within the Guidelines for

Historic Reports published by the City’s Department of Planning, Building and Code Enforcement, as last revised on February 26, 2010.

Although the criteria listed within the Historic Preservation Ordinance are the most relevant determinants when evaluating the significance of historic resources in San José, the numerical tally system is used as a general guide for the identification of potential historic resources. The “Historic Evaluation Sheet” reflects the historic evaluation criteria for the Registers as well as the City’s Historic Preservation Ordinance, and analyzes resources according to the following criteria:

- Visual quality/design
- History/association
- Environment/context
- Integrity
- Reversibility

A rating with numerical “points” is assigned by a qualified evaluator according to the extent to which each building meets the criteria listed above.

33 and above points – Structure of Merit (SM)

1-32 points – non-significant

The numerical rating system is not used to determine eligibility of a property for City Landmark designation.

Envision San José 2040 General Plan

The General Plan includes the following cultural resources policies applicable to the proposed project.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

3.4.1.2 *Existing Conditions*

3.4.1.3 *Subsurface Resources*

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

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

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

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

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

Although there are no existing conditions or immediate evidence that would suggest the presence of subsurface historic or prehistoric resources, the project site is located in a culturally sensitive area due to known prehistoric and historic occupation of San José and Santa Clara and the site's proximity to Saratoga Creek. Native American settlements are commonly associated with the abundant food supply in the Santa Clara Valley and they often established settlements near local waterways. The project site is located approximately 0.8 miles east of Saratoga Creek, which increases the likelihood that historic artifacts may be located on the project site. In addition, historic occupation of San José and Santa Clara has been well documented, and the City has a strong record reflecting early settlement by Spanish missionaries.

Literature Review

The literature review found no known record of historic or prehistoric archaeological sites located on-site or within one quarter mile of the site. Nevertheless, due to the early development of the project area prior to systematic archaeological surveys, subsurface resources may still exist.

3.4.1.4 *Paleontological Resources*

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Based on the underlying geologic formation of the project site, the General Plan FEIR (as amended) found the project site to have a generally high sensitivity (at depth) for paleontological resources.

3.4.1.5 *Structures On-Site*

The existing buildings on-site were constructed between 1973 and 1974, making them approximately 45 years old. The buildings are not listed on the City's Historic Resources Inventory.¹⁰ The adjacent commercial and office buildings and residences were all constructed in the same general time frame as the buildings on the project site and the building on-site do not appear eligible for the California Register of Historic Resources or the National Register of Historic Places based on their age and architectural style.

3.4.2 Cultural Resources Impacts

3.4.2.1 *Thresholds of Significance*

For the purposes of this EIR, a cultural resources impact is considered significant if the project would:

- Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature;
- Disturb any human remains, including those interred outside of dedicated cemeteries;
- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or
 - A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c)

¹⁰ City of San José. City of San José Historic Resources Inventory. Accessed: July 6, 2017. Available at: <http://www.sanjoseca.gov/DocumentCenter/View/35475>.

of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.

3.4.2.2 *Consistency with Plans and Policies*

The project would have no impact on historic structure on or off the project site. With implementation of standard permit conditions, the project would be consistent with Policies ER-10.1, ER-10.2, and ER-10.3.

3.4.2.3 *Impacts to Historic Structures*

Under CEQA, a structure need not be listed on a National, State, or local register to qualify as a significant resource. A structure is considered a significant resource under CEQA if it is found to be *eligible* for inclusion on a National, State, or local register. Furthermore, a prized architectural style or appealing aesthetic is not the sole determining factor in the historical significance of a structure, as structures can also be significant for association with important persons or events. Public opinions on what is visually appealing or architecturally important change over time, so a structure's aesthetic may not be appreciated by modern standards. That does not, however, preclude it from being eligible for listing as a historic resource.

As mentioned in *Section 3.4.1.5*, the existing buildings on-site are less than 50 years old and are not listed on the City's Historic Resources Inventory. Implementation of the proposed project would have a less than significant impact on historic resources and/or structures. **(Less Than Significant Impact)**

3.4.2.4 *Impacts to Archaeological Resources*

The General Plan FEIR (as amended) concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on subsurface prehistoric and historic resources.

Policy ER-10.1 states that for proposed development sites that have been identified as archaeologically or paleontologically sensitive, the City will require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Development on and adjacent to the project site over the last 50+ years has failed to generate reports of any archaeological finds and no recorded archaeological deposits are located on or adjacent to the project site. The site is, however, located near Saratoga Creek and within a generally sensitive area for archaeological resources. Demolition of existing structures and pavement and excavation of the site could damage as yet unrecorded subsurface resources.

Standard Permit Conditions

Consistent with the City's General Plan policies ER-10.2 and ER-10.3, the following standard permit conditions are included in the project to reduce or avoid impacts to subsurface cultural resources.

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement shall be notified, and the archaeologist shall examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement and the Northwest Information Center prior to the issuance of occupancy permits.
- In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

With implementation of the Standard Permit Conditions, redevelopment of the project site would have a less than significant impact on subsurface cultural resources. **(Less Than Significant Impact)**

3.4.2.5 *Impacts to Paleontological Resources*

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils; however, mammoth remains were found along the nearby Guadalupe River in San Jose in 2005. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlies older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Based on the underlying geologic formation of the project site, the General Plan FEIR (as amended) found the project site to have a high sensitivity (at depth) for paleontological resources.

The General Plan FEIR (as amended) concluded that with implementation of existing regulations (California Public Resources Code Section 30244) and adopted General Plan Policies ER-10.1 and ER-10.3, new development within San José would have a less than significant impact on paleontological resources.

While excavation on-site would reach a maximum depth of 10 feet (for the parking garage), it is improbable that paleontological resources would be discovered at that depth due to the distance of the site from the Bay or other water sources and because no paleontological resources have been discovered in this area of San José or on-site. If, however, paleontological resources are discovered

on-site during excavation, the project would be required to implement the following Standard Permit Condition.

Standard Permit Condition

- If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds. The project proponent will be responsible for implementing the recommendations of the paleontological monitor.

The proposed project would have a less than significant impact on paleontological resources. **(Less Than Significant Impact)**

3.4.2.6 Impacts to Subsurface Tribal Cultural Resources

The project site is located near Saratoga Creek and within a generally sensitive area for prehistoric and archaeological deposits, including tribal cultural objects. No tribal cultural features, including sites, features, places, cultural landscapes or sacred places have been identified based on available information. In addition, any prehistoric surface features or landscapes have been modified due to development of the project site and area.

Assembly Bill (AB) 52 requires lead agencies to complete formal consultations with California Native American tribes during the CEQA process to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. This consultation requirement applies only if the tribes have sent written requests for notification of projects to the lead agency. At the time of preparation of this EIR, the City of San José had yet to receive any requests for notification from tribes.

Based on available data, there are no recorded tribal cultural objects in the project area. Any subsurface artifacts found on-site would be addressed consistent with the Standard Permit Conditions listed in Section 3.4.2.4. Therefore, the proposed project would have a less than significant impact on tribal cultural resources. **(New Less Than Significant Impact)**

3.4.3 Conclusion

The project would have no impact on historic structures. Conformance with the identified General Plan policies and Standard Permit Conditions, as described above, would reduce potential impacts to subsurface resources to a less than significant level. **(Less Than Significant Impact)**

3.5 ENERGY

This section was prepared pursuant to CEQA Guidelines Section 15126.4 (a)(1)(C) and Appendix F which requires that EIRs include a discussion of the potential energy impacts of proposed projects with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. The information in this section is based largely on data and reports produced by the California Energy Commission, the BAAQMD, and the Energy Information Administration of the U.S. Department of Energy.

3.5.1 Environmental Setting

Energy consumption is analyzed in an EIR because of the environmental impacts associated with its production and usage. Such impacts include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases of energy use.

Energy usage is typically quantified using the British thermal unit (Btu).¹¹ As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a kilowatt hour (kWh) of electricity are 123,000 Btus, 1,000 Btus, and 3,400 Btus, respectively. Utility providers measure gas usage in therms. One therm is approximately equal to 100,000 Btus.

Electrical energy is expressed in units of kilowatts (kW) and kWh. One kW, a measurement of power (energy used over time), equals one thousand joules¹² per second. A kWh is a measurement of energy. If run for one hour, a 1,000 watt (one kW) hair dryer would use one kWh of electrical energy. Other measurements of electrical energy include the megawatt (1,000 kW) and the gigawatt (1,000,000 kW).

Total energy usage in California was approximately 7,677 trillion Btus in the year 2015 (the most recent year for which this specific data was available).¹³ The breakdown by sector was approximately 18 percent for residential uses, 19 percent for commercial uses, 24 percent for industrial uses, and 39 percent for transportation.¹⁴

3.5.1.1 *Regulatory Framework*

Federal

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

¹¹ A Btu is the amount of energy that is required to raise the temperature of one pound of water by one degree Fahrenheit.

¹² As defined by the International Bureau of Weights and Measures, the joule is a unit of energy or work. One joule equals the work done when one unit of force (a Newton) moves through a distance of one meter in the direction of the force.

¹³ U.S. Energy Information Administration. "California Energy Consumption Estimates 2015". Accessed: March 7, 2018. Available at: <http://www.eia.gov/state/?sid=CA#tabs-2>.

¹⁴ Ibid.

State

Renewable Energy Standards

In 2002, California established its Renewables Portfolio Standard (RPS) Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. In 2006, California's 20 percent by 2010 RPS goal was codified under Senate Bill (SB) 107. Under the provisions of SB 107, investor-owned utilities were required to generate 20 percent of their retail electricity using qualified renewable energy technologies by the end of 2010. In 2008, Executive Order S-14-08 was signed into law and required that retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Pacific Gas and Electric Company (PG&E's) is the electricity provider to the project site. PG&E's 2016 electricity mix was 33 percent renewable; thus, they have already met the requirements of Executive Order S-14-08.¹⁵

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

Building Codes

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately every three years, and the 2016 Title 24 updates went into effect on January 1, 2017.¹⁶ Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.¹⁷

In January 2010, the state adopted the California Green Building Standards Code (CALGreen), which established mandatory green building standards for buildings in California. CALGreen was also updated and went in to effect on January 1, 2017. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

Local

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a Leadership in Energy and Environmental Design (LEED)¹⁸,

¹⁵ Pacific Gas &Electricity. "Exploring Clean Energy Solutions." Accessed: March 7, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page.

¹⁶ California Building Standards Commission. "Welcome to the California Building Standards Commission". Accessed: March 7, 2018. Available at: <http://www.bsc.ca.gov/>.

¹⁷ California Energy Commission. "2016 Building Energy Efficiency Standards." Accessed: March 7, 2018. Available at: <http://www.energy.ca.gov/title24/2016standards/index.html>.

¹⁸ Created by the non-profit organization United States Green Building Council, LEED is a certification system that assigns points for green building measures based on a 110-point rating scale.

GreenPoint¹⁹, or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in Table 3.5-1 below.

Table 3.5-1: Private Sector Green Building Policy Applicable Projects	
Applicable Project*	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable New Construction Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified
<p>Notes: *For mixed-use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard. Source: City of San José. “Private Sector Green Building.” Accessed: March 7, 2018. Available at: http://www.sanjoseca.gov/index.aspx?NID=3284.</p>	

3.5.1.2 *Background Information*

Electricity

The electricity supply in California involves a complex grid of power plants and transmission lines. In 2016, California produced approximately 93 percent of the electricity it consumed and the rest was imported. California’s non CO₂-emitting electric generation (from nuclear, large hydroelectric, solar, wind, and other renewable sources) accounted for 50 percent of total in-state generation for 2016, compared to 40 percent in 2015.²⁰ Electricity supplied from out-of-state, coal-fired power plants has continued to decrease since 2006, following the enactment of a state law requiring California utilities to limit new long-term financial investments to power plants that meet California emissions standards.²¹

California’s total system electric generation in 2016 was 290,567 gigawatt-hours (GWh), which was down 1.6 percent from 2015’s total generation of 295,405 GWh. California’s in-state electric generation was up by approximately one percent at 198,227 GWh compared to 196,195 GWh in 2015, and energy imports were down by 6,869 GWh to 92,341 GWh.²² In 2016, total in-state solar generation increased 31.5 percent from 2015 levels and wind generation increased 10.8 percent.

¹⁹ Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.

²⁰ California Energy Commission. “Total System Electric Generation.” Accessed: March 7, 2018. Available at: http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html.

²¹ U.S. Energy Information Administration. “California State Profile and Energy Estimates Profile Analysis.” Accessed: March 7, 2018. Available at: <https://www.eia.gov/state/analysis.php?sid=CA#40>.

²² California Energy Commission. “Total System Electric Generation.” Accessed: March 7, 2018. Available at: http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html.

Growth in annual electricity consumption from traditional power plants declined reflecting increased energy efficiency and higher self-generation from solar photovoltaic power systems. Per capita drops in electrical consumption are predicted through 2027 as a result of energy efficiency gains and increased self-generation (particularly from photovoltaic systems).²³ Due to population increases, however, it is estimated that future demand in California for electricity will grow at approximately one percent each year through 2027, and that 319,256 GWh of electricity would be utilized in the state in 2027.²⁴

Pacific Gas and Electric Company (PG&E) is the City of San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates or buys electricity from hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2016, natural gas facilities provided 17 percent of PG&E's electricity delivered to retail customers; nuclear plants provided 24 percent; hydroelectric operations provided 12 percent; renewable energy facilities including solar, geothermal, and biomass provided 33 percent; and 13 percent was unspecified.²⁵

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices. Electricity in Santa Clara County in 2016 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2016, a total of approximately 16,800 GWh of electricity was consumed in Santa Clara County.²⁶

Natural Gas

In 2016, approximately three percent of California's natural gas supply came from in-state production, while 97 percent was imported from other western states and Canada.²⁷ California's natural gas is supplied by interstate pipelines, including the Mojave Pipeline, Transwestern Pipeline, Questar Southern Trails Pipeline, Tuscarora Pipeline, and the Baja Norte/North Baja Pipeline.²⁸ As a result of improved access to supply basins, as well as pipeline expansion and new projects, these pipelines currently have excess capacity.

In 2016, approximately 32 percent of the natural gas delivered for consumption in California was for electricity generation, 37 percent for industrial uses, 19 percent for residential uses, 11 percent for commercial uses, and less than one percent for vehicle fuel. As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2016, California consumed approximately 2,238,436,067

²³ California Energy Commission. *California Energy Demand Updated Forecast, 2017-2027*. Accessed: March 7, 2018. Available at: http://docketpublic.energy.ca.gov/PublicDocuments/16-IEPR-05/TN214635_20161205T142341_California_Energy_Demand_Updated_Forecast.pdf.

²⁴ Ibid.

²⁵ Pacific Gas &Electricity Company. "Exploring Clean Energy Solutions." Accessed: March 7, 2018. Available at: https://www.pge.com/en_US/about-pge/environment/what-we-are-doing/clean-energy-solutions/clean-energy-solutions.page?WT.mc_id=Vanity_cleanenergy.

²⁶ California Energy Commission. "Energy Consumption by County." Accessed: March 7, 2018. Available at: <http://ecdms.energy.ca.gov/elecbycounty.aspx>.

²⁷ California Gas and Electric Utilities. 2016 California Gas Report. Accessed July 14, 2017. http://docketpublic.energy.ca.gov/PublicDocuments/16-BSTD-06/TN212364_20160720T111050_2016_California_Gas_Report.pdf.

²⁸ Ibid.

MMBtu (million Btu) of natural gas; a slight increase from 2015 when 2,365,651,066 MMBtu were consumed.²⁹ In Santa Clara County, a total of 42.11 MMBtu of natural gas were consumed in 2016, which is about three percent of the state's total.³⁰

Natural gas demand in California is anticipated to decrease approximately one percent per year through 2035 and 2016 data is anticipated to reflect this trend when fully released. This decline is due to on-site residential, commercial, and industrial electricity generation; aggressive energy efficiency programs; and a decrease in demand for electrical power generation as a result of the implementation of state-mandated RPS targets (as the state moves to power generation resources that result in less GHG emissions than natural gas).³¹

Gasoline for Motor Vehicles

California crude oil production levels have been declining over the last 30 years; however, the state still accounts for six percent of the United States' crude oil production and petroleum refining capacity.³² In 2016, 143.4 billion gallons of gasoline were consumed in the United States (setting an annual gasoline consumption record) and 15.5 billion gallons were consumed in California.^{33,34} The United States has seen low gasoline prices and high demand in the last few years, though forecast growth in demand is expected to slow as retail prices begin to increase.³⁵

The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 22.0 mpg in 2015.³⁶ Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 mpg by the year 2020, applies to cars and light trucks of Model Years 2011

²⁹ U.S. Energy Information Administration. "Natural Gas Summary." Accessed: March 7, 2018. Available at: http://www.eia.gov/dnav/ng/ng_sum_lsum_dcua_sca_a.htm.

³⁰ California Energy Commission. "Natural Gas Consumption by County." Accessed: March 7, 2018. Available at: <http://ecdms.energy.ca.gov/gasbycounty.aspx>.

³¹ California Gas and Electric Utilities. "2016 California Gas Report." Accessed: March 7, 2018. Available at: http://docketpublic.energy.ca.gov/PublicDocuments/16-BSTD-06/TN212364_20160720T111050_2016_California_Gas_Report.pdf.

³² U.S. Energy Information Administration. "California State Profile and Energy Estimates Profile Analysis." Accessed: March 7, 2018. Available at: <https://www.eia.gov/state/analysis.php?sid=CA#40>.

³³ U.S. Energy Information Administration. "Frequently Asked Questions." Accessed: March 7, 2018. Available at: <https://www.eia.gov/tools/faqs/faq.cfm?id=23&t=10>.

³⁴ California State Board of Equalization. "Net Taxable Gasoline Gallons." Accessed: March 7, 2018. Available at: http://www.cdtfa.ca.gov/taxes-and-fees/MVF_10_Year_Report.pdf.

³⁵ U.S. Energy Information Administration. "Short-Term Energy Outlook, U.S. Liquid Fuels." Accessed: March 7, 2018. Available at: http://www.eia.gov/forecasts/steo/report/us_oil.cfm.

³⁶ U.S. Department of Transportation. "Table 4-23: Average Fuel Efficiency of U.S. Light Duty Vehicles." Accessed: March 7, 2018. Available at: http://www.rita.dot.gov/bts/sites/rita.dot.gov/bts/files/publications/national_transportation_statistics/html/table_04_2_3.html.

through 2020.^{37,38} In 2012, the federal government raised the fuel economy standard to 54.5 mpg for cars and light-duty trucks by Model Year 2025.³⁹

3.5.1.3 Energy Use of Existing Development

The electricity and natural gas on-site is used by the existing five buildings (approximately 163,000 square feet). The estimated annual energy use of the existing development, shown below in Table 3.5-2, is based on the energy demand factors used in the California Emissions Estimator Model (CalEEMod).

Table 3.5-2: Estimated Annual Energy Use of Existing Development		
Development	Electricity Use (kWh)	Natural Gas Use (kBtu)
163,000 square feet of general office building	2,034,240	3,150,790
Source: Illingworth & Rodkin, Inc. <i>4300 Stevens Creek Boulevard Mixed-Use Project Draft Air Quality Assessment</i> . February 24, 2018.		

The existing development on-site uses approximately 2,034,240 kWh of electricity and 3,150,790 kBtu of natural gas, as shown above. Based on the 2015 average fuel economy of 22.0 mpg and the existing trip rates described in Section 3.10, Traffic, the existing development consumes approximately 121,108 gallons of gasoline per year.^{40, 41}

3.5.2 Energy Impacts

3.5.2.1 Thresholds of Significance

Based on Appendix F of the CEQA Guidelines, and for the purposes of this EIR, a project will result in a significant energy impact if the project will:

- Use fuel or energy in a wasteful manner; or
- Result in a substantial increase in demand upon energy resources in relation to projected supplies.
- Result in longer overall distances between jobs and housing.

³⁷ U.S. Department of Energy. “Energy Independence & Security Act of 2007.” Accessed: March 7, 2018. Available at: <https://www.afdc.energy.gov/laws/eisa>.

³⁸ Public Law 110–140—December 19, 2007. “Energy Independence & Security Act of 2007.” Page 1449. Accessed: March 7, 2018. Available at: <http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf>.

³⁹ National Highway Traffic Safety Administration. “Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards.” Accessed: March 7, 2018. Available at: <https://www.nhtsa.gov/press-releases/obama-administration-finalizes-historic-545-mpg-fuel-efficiency-standards>.

⁴⁰ 2,664,383 VMT/22.0 mpg = 121,108 gallons of gas

⁴¹ Illingworth & Rodkin, Inc. *4300 Stevens Creek Boulevard Mixed-Use Project Draft Air Quality Assessment*. February 24, 2018.

3.5.2.2 *Estimated Energy Use of the Proposed Project*

As proposed, the project would construct a 300,000 square foot office building, a six level parking garage with 858 parking stalls, and a total of 582 residential units. In addition, the project proposes 10,000 square feet of ground floor retail within Building C.

Energy would be consumed during the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site for demolition and grading, and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. Implementation of the proposed development would consume energy (in the form of electricity and natural gas) primarily from building heating and cooling, lighting, and water heating. Table 3.5-3 below summarizes the estimated energy use of the proposed project.

Table 3.5-3: Estimated Annual Energy Use of Proposed Development		
Development	Electricity Use (kWh)	Natural Gas Use (kBtu)
300,000 square feet of general office building	3,744,000	5,799,000
582 mid-rise apartments	2,457,200	5,081,110
10,000 square feet of strip mall ¹	104,800	46,000
2,043 parking stalls in enclosed structure	4,633,520	0
Total:	10,939,520	10,926,110
Source: Illingworth & Rodkin, Inc. <i>4300 Stevens Creek Boulevard Mixed-Use Project Draft Air Quality Assessment</i> . February 24, 2018.		
Note: ¹ CalEEMod does not have “commercial/retail” land use, so the energy demand factors for “strip mall” was used.		

3.5.2.3 *Site Transportation-Related Energy Use*

The proposed project would result in an increase of 5,222 net new daily trips (refer to *Section 3.13.3.2*). The total annual VMT for the project would be approximately 14,366,413.⁴² Using the U.S. EPA fuel economy estimates (for 2015, the estimated average fuel economy of 22.0 mpg, the proposed development results in the consumption of approximately 653,019 gallons of gasoline per year.⁴³

3.5.2.4 *Operational Impacts from the Proposed Project*

Table 3.5-4 below compares the energy use under project conditions with the energy use under existing conditions.

⁴² Illingworth & Rodkin, Inc. *4300 Stevens Creek Boulevard Mixed-Use Project Draft Air Quality Assessment*. February 24, 2018.

⁴³ 14,366,413 VMT/22.0 mpg = 653,019 gallons of gasoline.

Table 3.5-4: Estimated Annual Energy Use of Existing and Proposed Development			
Development	Electricity Use (kWh)	Natural Gas Use (kBtu)	Gasoline (gallons)
Existing Development	2,034,240	3,150,790	121,108
Proposed Project	10,939,520	10,926,110	653,019
Increase:	8,905,280	7,775,320	531,911
Source: Illingworth & Rodkin, Inc. 4300 Stevens Creek Boulevard Mixed-Use Project Draft Air Quality Assessment. February 24, 2018.			

As shown in the table, implementation of the proposed project would increase electricity use by approximately 8,905,280 kWh per year, natural gas usage by approximately 7,775,320, and gasoline consumption by approximately 531,911 gallons.

The energy use increase is likely overstated because the estimates for energy use do not take into account the efficiency measures incorporated into the project. The project would be built to the 2016 CALGreen requirements and Title 24 energy efficiency standards, which would improve the efficiency of the overall project.

As mentioned previously, the annual electricity use in California is estimated to increase approximately one percent each year through 2027. The project would increase annual electricity use by approximately 8,905,280 kWh and would not result in a substantial increase in demand on electrical energy resources. In 2016, California used approximately 2,238,436,067 million Btu of natural gas. Based on the relatively small increase in natural gas demand from the project (7,775,320 kBtu per year) compared to the growth trends in natural gas supply and the existing available supply in California, the proposed project would not result in a substantial increase in natural gas demand relative to projected supplies.

Implementation of the project would increase annual gasoline demand by approximately 531,911 gallons. New automobiles purchased by future occupants of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. The nearest bus stop locations are located at Stevens Creek Boulevard (Route 23) and at the Kiely Boulevard/Stevens Creek Boulevard intersections (Routes 23, 323, 57, and 58). As discussed in *Section 3.12.3.6*, existing bus services would be able to accommodate the increase in new riders generated by the proposed project. As a result, implementation of the proposed project would not result in a substantial increase on transportation-related energy uses. **(Less Than Significant Impact)**

3.5.2.5 Energy Efficiency

Construction

The anticipated construction schedule assumes that the project would be built over 25 months, or an estimated 550 construction workdays (assuming 22 workdays per month). The project would require demolition, grading, and site preparation for construction of the proposed buildings. Based on data provided by the applicant, the proposed project would require up to 35,000 cubic yards of soil export.

The overall construction schedule and process is already designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, maintaining it, and fueling it. Therefore, the opportunities for future efficiency gains during construction are limited. The proposed project, however, does include several measures that would improve the efficiency of the construction process. Implementation of the BAAQMD BMPS detailed in *Section 3.2, Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment.

There will be unavoidable adverse effects caused by construction of the project because of the use of fuels and building materials; however, implementation of the Standard Permit Conditions outlined in *Section 3.2, Air Quality* would reduce the energy impacts of construction and unavoidable effects of development to a less than significant level. **(Less Than Significant Impact)**

Operation

The proposed project would be required to build to the State's CALGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Through the proposed project does not include on-site renewable energy resources, the proposed mixed-use development would be built to achieve minimum LEED certification consistent with San José's Council Policy 6-32.

The proposed project would be required to provide a total of 154 bicycle parking spaces for the residential/retail development and 63 bicycle parking spaces for the office development, consistent with the City's bicycle parking requirement. The inclusion of bicycle parking and proximity to transit would incentivize the use of alternative methods of transportation to and from the site.

In addition, at least 50 percent of the hardscape surfaces on the site would have a solar reflectance index (SRI) of 29 or more as required for LEED certification. By including pavement that is more reflective than traditional blacktop surfaces, the project would reduce the heat generated locally by hardscape (known as the 'heat island effect') and, by extension, incrementally reduce the use of air conditioning in the new building. Based on the measures required for LEED Certification, the proposed project would comply with existing State energy standards. **(Less Than Significant Impact)**

3.5.2.6 *Distance Between Jobs and Housing*

The proposed project is an infill development that would create jobs and housing in a City that currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The implications of this imbalance are that many residents leave San José five times per week to commute to and from work, typically by personal vehicle. By adding 582 units of additional housing to the City of San José and approximately 510 jobs (assuming one worker per 300 square feet of office space and one employee per 250 square feet for smaller commercial/retail space provided), the proposed project would incrementally decrease the imbalance between jobs and employed residents. Furthermore, the project would create jobs and place housing in an area where services, retail, and transit exist in the immediate vicinity. High-density development, by its very

nature, is an efficient use of land and resources by concentrating development in urban areas near existing roads and infrastructure. High-density infill development also results in fewer environmental impacts and shorter commute distances to jobs than traditional urban sprawl development, which occurs at the urban edge. The project would not substantially increase the distance between jobs and housing nor exacerbate the jobs/housing imbalance.

The project would be required to provide approximately 217 bicycle parking spaces and is located near existing transit services which would help reduce vehicle trips to and from the site. Therefore, although the project would increase the VMT associated with the project site compared to the existing condition, the project would not result in significant energy impacts. **(Less than Significant Impact)**

3.5.3 Conclusion

The project proposes a mixed-use development consisting of residential, office, and retail development, which would place new residences and jobs at an infill site in San José. The project would not result in significant energy impacts associated with the distance between jobs and housing or result in the wasteful use of fuel or energy. Implementation of the project would not result in substantial increase in demand upon energy resources in relation to project supplies. **(Less Than Significant Impact)**

3.6 GEOLOGY AND SOILS/MINERAL RESOURCES

The following discussion is based, in part, Geotechnical Investigation completed by *ENGEO* in November 2016. A copy of this report is attached in Appendix C of this EIR.

3.6.1 Environmental Setting

3.6.1.1 *Regulatory Framework*

Development within the City of San José is regulated by various Federal, State, and local regulations aimed at reducing potential impacts of geologic and seismic hazards to people, property, and the environment. As described in *Section 3.9 Hydrology and Water Quality*, erosion control is regulated by the Federal Clean Water Act, State of California Porter Cologne Water Quality Act, the NPDES, and City Policies 6-29 and 8-14.

State

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed into law following the destructive 1971 San Fernando earthquake. The Act ensures public safety by prohibiting the siting of most structures for human occupancy across traces of active faults that constitute a potential hazard to structures from surface faulting or fault creep. Local agencies are responsible for regulating most development projects within designated fault zones. Alquist-Priolo maps are distributed to affected cities, counties, and state agencies for their use in planning and controlling new construction.

Seismic Hazards Mapping Act

Following the 1989 Loma Prieta earthquake, the Seismic Hazards Mapping Act (SHMA) was passed by the California legislature in 1990. The SHMA (Public Resources Code, Chapter 7.8, Section 2690-2699.6) directs the Department of Conservation, California Geological Survey to identify and map areas prone to liquefaction, earthquake-induced landslides and amplified ground shaking. It also requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the identified hazard is present and the inclusion of appropriate mitigation to reduce earthquake-related hazards.

California Building Standards Code

Title 24 of the California Code of Regulations, known as the California Building Standards Code (CBSC) contains the regulations that govern the construction of buildings in California. Through the CBSC, the state provides a minimum standard for building design and construction. The CBSC contains specific requirements for seismic safety, excavation, foundations, retaining walls and site demolition. It also regulates grading activities, including drainage and erosion control.

The California Building Code (CBC) refers to Part 2 of the CBSC in Title 24 of the California Code of Regulations. The CBC covers grading and other geotechnical issues, building specifications, and non-building structures. The CBC requires that a site-specific geotechnical investigation report be prepared by a licensed professional for proposed developments. The purpose of a site-specific

geotechnical investigation is to identify seismic and geologic conditions that require project mitigation, such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is renewed on a triennial basis (every three years).

City of San José Municipal Code

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

Envision San José 2040 General Plan

The General Plan includes the following geology and soils policies applicable to the proposed project.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-3.2: Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Approve development in areas subject to soils and geologic hazards, including un-engineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Policy EC-4.7: Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

3.6.1.2 Existing Conditions

Regional Geology

San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface. The Santa Clara Valley consists of a large structural basin containing alluvial deposits derived from the Diablo Range to the east and the Santa Cruz Mountains to the west. The valley sediments were deposited as a series of coalescing alluvial fans by streams that drain the adjacent mountains. Soil types in the area include clay in the low-lying central areas, loam and gravelly loam in the upper portions of the valley, and eroded rocky clay loam in the foothills.

On-Site Geologic Conditions

Soils

The southwestern portion of the site is underlain by Urbanland-Campbell complex of zero to two percent slopes. The northeastern portion of the site is underlain by Urbanland-Stevenscreek complex of zero to two percent slopes. The soils in the project area have moderate to very high expansion potential.

Groundwater

Depth to shallow groundwater has historically been encountered at approximately 30 to 40 feet below grade. The most recent groundwater depth measurements collected in the project area indicate the groundwater to be approximately 40 feet below the ground surface (bgs).

Seismicity

The San Francisco Bay Area is classified as the most seismically active region in the United States. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well defined active fault zones of the San Andreas Fault System, which regionally trends in a northwesterly direction. The U.S. Geological Survey's (USGS) Working Group on

California Earthquake Probabilities 2007 estimates that there is a 63 percent chance of at least one magnitude 6.7 earthquake occurring in the Bay Area between 2007 and 2036. The Hayward Fault is the most likely to generate an earthquake of this magnitude in the next 30 years.

Fault	Distance from Site
Hayward	9.5 miles
Calaveras	13.9 miles
Monte Vista – Shannon	4.0 miles
San Andreas	7.5 miles

The project area is not located within the Alquist-Priolo Earthquake Fault Zone, the Santa Clara County Fault Hazard Zone, or the City of San José Potential Hazard Zone, and no active faults have been mapped on the project site.⁴⁴ As a result, the risk of fault rupture is low. Faults in the region are capable of generating earthquakes of

magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Active faults near the project site are shown in Table 3.7-1.

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the California Geological Survey and the Santa Clara County Geologic Hazard Zone Map, the project area is located in a potential landslide and liquefaction zone.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. The physical distance between the project site and Guadalupe River is approximately 4.2 miles. The physical distance between the project site and Coyote Creek is approximately 5.7 miles. At these distances, the potential for lateral spreading on-site is low.

Mineral Resources

Mineral resources known to exist in and near Santa Clara County include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation’s mercury over the past century.

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

⁴⁴ Santa Clara County, *Santa Clara County Geologic Hazard Zones*, Map 19. Accessed: December 13, 2016. Available at: https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf.

mineral deposits subject to SMARA. Communications Hill is located approximately 11 miles southeast of the project site.

3.6.2 Geology and Soils Impacts

3.6.2.1 *Thresholds of Significance*

For the purposes of this EIR, a geology and soils impact is considered significant if the project would:

- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42);
 - Strong seismic ground shaking;
 - Seismic-related ground failure, including liquefaction;
 - Landslides;
- Result in substantial soil erosion or the loss of topsoil; or
- Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse;
- Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property;
- Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.
- Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state; or
- Result in the loss of availability of locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

3.6.2.2 *Consistency with Plans and Policies*

The proposed project would be required to be built in conformation with a site specific geotechnical report and the most recent California Building Code standards to address all geological and seismic related issues on the project site. In addition, as a condition of approval, the project would be required to implement erosion control measures during construction to avoid loss of topsoil and pollution of local waterways. Therefore, the project would be consistent with Policies EC-3.1, EC-3.2, EC-4.1, EC-4.2, EC-4.4, EC-4.5, EC-4.7, and EC-4.9.

3.6.2.3 *Geologic Impacts from the Project*

The project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years.⁴⁵

⁴⁵ U.S. Geological Survey. "Earthquake Outlook for the San Francisco Bay Region 2014-2043". Fact Sheet 2016-3020. 2016. Accessed: December 13, 2016. Available at: <https://pubs.er.usgs.gov/publication/fs20163020>.

Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 7.0 in magnitude. The project site would experience intense ground shaking in the event of a large earthquake. The project site and surrounding areas are, however, relatively flat and have a low potential for lateral spreading during large seismic events. As a result, development of the project site would not expose adjacent or nearby properties to landslide or erosion related hazards. **(Less Than Significant Impact)**

The project site is located within a State of California Liquefaction Hazard Zone. A design-level geotechnical investigation shall be prepared for the proposed development that identifies site-specific ground failure hazards such as liquefaction and lateral spreading and appropriate techniques to minimize risks to people and structures. Over-excavation and re-compaction is a commonly used method to mitigate soil conditions susceptible to settlement. In addition, the project shall be designed and constructed in accordance with the California Building Code. Adherence to the California Building Code would ensure the project resists minor earthquakes without damage and major earthquakes without collapse and would not exacerbate existing geologic conditions on adjacent sites. **(Less Than Significant Impact)**

The primary geotechnical issues with the project include the presence of expansive soils, the existing fill associated with previous site development, the presence of alluvial soil susceptible to settlements, seismic induced settlement potential, and foundation support. The proposed project would be built and maintained in conformance with a site-specific geotechnical report and applicable regulations including the most recent CBC. As a result, the project would not change or exacerbate the geologic conditions of the project area and would not result in a significant geology hazards impact. **(Less Than Significant Impact)**

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

Groundwater

The proposed parking garage associated with Building C would extend two levels below grade to a depth of approximately 20 feet bgs. The parking garage for Building D and the free-standing garage would each have one level of below grade parking, extending approximately 10 feet bgs. For the entire project, planned excavation would not extend near or below the current groundwater level, which has been determined to be approximately 30 to 40 feet bgs. As a result, the proposed project would have a less than significant impact on the shallow groundwater aquifers. **(Less than Significant Impact)**

3.6.2.4 Construction Impacts

The site is developed and the majority of the site is paved with very little soil currently exposed. Implementation of the project would require ground disturbance due to demolition of the existing building and surface parking lot, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed.

The City's National Pollutant Discharge Elimination Systems (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan FEIR (as amended) concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant.

The City shall require the project to comply with all applicable City regulatory programs pertaining to construction related erosion. Because the project would comply with the regulations identified in the General Plan FEIR (as amended), implementation of the proposed project would have a less than significant soil erosion impact. **(Less Than Significant Impact)**

Demolition and construction on the project site would temporarily increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The project would be required as a condition of approval to implement the following measures, consistent with the regulations identified in the General Plan FEIR (as amended), for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

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

Because the proposed project would comply with the applicable City regulatory programs and policies related to erosion, implementation of the proposed project would have a less than significant erosion impact. **(Less Than Significant Impact)**

3.6.2.5 *Mineral Resources*

The project site is not located in an area designated as containing regionally or locally significant mineral resources. **(No Impact)**

3.6.2.6 *Existing Geologic Conditions Affecting the Project Site*

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. geologic hazards) affecting a proposed project, which are addressed below.

The policies of the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. The City of San José General Plan Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation

measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. To ensure this, the policy requires the City of San José Geologist to review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

As discussed previously, the project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years. The project site and surrounding areas would experience intense ground shaking in the event of an earthquake; though the site has a low potential for liquefaction and lateral spreading. In addition, soils in the project area contain soils with moderate to very high expansion potential.

The proposed project would be built and maintained in accordance with the design-specific geotechnical report prepared for the site and applicable regulations including the most recent CBC, which contains the regulations that govern the construction of structures in California. The geotechnical report specifically recommends the following:

- Removal of undocumented fill and replacement with engineered soil fill;
- Shallow foundation systems such as stiff reinforced structural mats, post-tension slabs on ground, and/or shallow continuous and isolated column footings combined with floor slab on-grade; and
- Use of restrained walls for below-grade structures that are properly drained or are engineered to withstand the calculated hydrostatic pressure.

The General Plan FEIR (as amended) concluded that adherence to the CBC would reduce seismic related issues and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous conditions on the site.

Because the proposed project would comply with the design-specific geotechnical report (Appendix C), the CBC, and regulations identified in the General Plan FEIR (as amended) that ensure geologic hazards are adequately addressed, the project would comply with Policies EC-4.2 and EC-4.4.

3.6.3 Conclusion

Adherence to all existing building codes, regulations, and policies, including the CBC and those in the General Plan would ensure construction of the proposed project would have a less than significant geologic and soils impact. **(Less Than Significant Impact)**

3.7 GREENHOUSE GAS EMISSIONS

In accordance with CEQA (Public Resources Code Section 21093) and CEQA Guidelines Section 15152, the following impacts analysis tiers from the certified General Plan FEIR (as amended).

3.7.1 Environmental Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the “greenhouse effect” is a process whereby GHGs accumulating in the atmosphere contribute to an increase in temperature of the earth’s atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinate compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

3.7.1.1 *Regulatory Framework*

Federal

Clean Air Act

The EPA is the federal agency responsible for implementing the Clean Air Act (CAA). Under the CAA, the EPA has the authority to regulate emissions of GHGs. The EPA also has authority to monitor GHG emissions and potentially prescribe actions to reduce those emissions.

State

California Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as Assembly Bill (AB) 32, the California Air Resources Board (CARB) established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the *Climate Change Scoping Plan*, identifying how emission reductions will be achieved from significant GHG sources.

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32 requires CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its *Climate Change Scoping Plan* in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO_{2e}). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO_{2e}.

Senate Bill 375 – Redesigning Communities to Reduce Greenhouse Gases

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light-truck sectors for 2020 and 2035, as compared to 2005 emissions levels. The per-capita GHG emissions reduction targets for passenger vehicles in the

San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission partnered with the Association of Bay Area Governments, BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy, known as *Plan Bay Area*. This plan establishes a course for reducing per-capita GHG emissions through the promotion of compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified Priority Development Areas (PDAs). The proposed project is not within a defined PDA.

Plan Bay Area 2040 was adopted in July 2017. Target areas in the *Plan Bay Area 2040* Action Plan include reducing GHG emissions, improving transportation access, maintaining the region's infrastructure, and enhancing resilience to climate change.

Regional and Local Plans

Bay Area 2017 Clean Air Plan

BAAQMD and other agencies prepare clean air plans as required under state and federal CAAs. The *Bay Area 2017 Clean Air Plan (2017 CAP)* focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. Consistent with the GHG reduction targets adopted by the State of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The 2017 CAP includes a wide range of control measures designed to decrease emissions of methane (and other super-GHGs), as well as decrease emissions of carbon dioxide resulting from fossil fuel combustion.

BAAQMD CEQA Air Quality Guidelines

The BAAQMD CEQA *Air Quality Guidelines* are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the Bay Area. The City of Santa Clara and other jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds, rules, plans, and methodologies for evaluating GHG emissions specified in the BAAQMD CEQA Air Quality Guidelines.

The BAAQMD thresholds were developed specifically for the Bay Area after considering the effects of AB 32 scoping plan measures that would reduce regional emissions. BAAQMD intends to achieve GHG reductions from new land use developments to close the gap between projected regional emissions with AB 32 scoping plan measures and the AB 32 targets. The BAAQMD GHG recommendations currently include a project-level GHG emission efficiency metric of 4.6 MT of CO₂e per service population (future residences and full-time workers) per year.

City of San José Municipal Code

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

- Green Building Regulations for Private Development (Chapter 17.84)

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

Envision San José 2040 General Plan

The General Plan includes a GHG Reduction Strategy that is designed to help the City sustain its natural resources, grow efficiently, and meet California legal requirements for GHG emissions reduction. Multiple policies and actions in the General Plan have GHG implications including those targeting land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The policies also include a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and the recent standards for “qualified plans” as set forth by BAAQMD.

The GHG Reduction Strategy was re-adopted by the San José City Council in December 2015. The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan FEIR and a 2015 Supplement to the General Plan FEIR. The City’s projected emissions and the GHG Reduction Strategy are consistent with the measures necessary to meet state-wide 2020 goals established by AB 32 and addressed in the Climate Change Scoping Plan. Measures have not been identified that would ensure GHG emissions would be consistent with state-wide 2050 goals; however, the City adopted overriding considerations for identified future impacts associated with buildout of the City’s General Plan.

The General Plan includes greenhouse gas policies applicable to the proposed project. These policies are also described within the City’s GHG Reduction Strategy.

Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas

Policy CD-2.11: Within the Downtown and Urban Village Overlay areas, consistent with the minimum density requirements of the pertaining Land Use/Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form. In these areas, whenever possible, use structured parking, rather than surface parking, to fulfill parking requirements. Encourage the incorporation of alternative uses, such as parks, above parking structures.

Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of

new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Policy CD-5.1: Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

Policy MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-14.4: Implement the City’s Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Policy TR-2.18: Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

3.7.1.2 *Existing On-Site GHG Emissions*

The project site is currently developed with three office buildings, two commercial buildings, and surface parking lots. GHG emissions are generated from vehicles entering and leaving the site and from heating, cooling, and lighting of the existing buildings.

3.7.2 Greenhouse Gas Emissions Impacts

3.7.2.1 *Thresholds of Significance*

For the purposes of this EIR, a greenhouse gas emissions impact is considered significant if the project would:

- Generate a greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

3.7.2.2 *Consistency with Plans and Policies*

Consistency with the San Jose Greenhouse Gas Reduction Strategy

The General Plan contains goals and policies adopted for the purpose of reducing GHG emissions, which center around five strategies: energy, waste, water, transportation, and carbon sequestration. These goals and policies are also discussed within the City’s GHG Reduction Strategy. Some measures are considered mandatory for all proposed development projects, while others are voluntary. Voluntary measures can be incorporated as mitigation measures for projects at the discretion of the City. The proposed project’s consistency with the relevant mandatory GHG reduction criteria is detailed below.

Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)
2. Implementation of Green Building Measures (General Plan Goals: MS-1, MS-2, MS-14)
 - Solar Site Orientation
 - Site Design
 - Architectural Design
 - Construction Techniques
 - Consistency with City Green Building Ordinance and Policies
 - Consistency with GHG Reduction Strategy Policies: MS-1.1, MS-1.2, MC-2.3, MS-2.11, and MS-14.4
3. Pedestrian/Bicycle Site Design Measures
 - Consistency with Zoning Ordinance
 - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, Cd-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7
4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;
5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable;
6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and
7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The buildings would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and CBC requirements. In addition, the project would be designed to achieve minimum LEED certification consistent with City Policy 6-32.

The proposed project is consistent with the General Plan land use designation for the site. Bicycle parking would be provided consistent with San José requirements, though the final quantity would be determined at the development permit stage. Given the project is consistent with the General Plan land use designation and the inclusion of bicycle parking, the project would be consistent with the mandatory Criteria 1 and 3.

The proposed project would be constructed consistent with the City’s required green building measures. Therefore, the project would be consistent with Criteria 2, 4, and 6. Criteria 5 and 7 are not applicable to the proposed project because the project does not include a data center or other energy-intensive use, or drive-through or vehicle serving uses.

Voluntary Criteria

Table 3.7-1 provides a summary of the voluntary criteria and describes the proposed project’s compliance with each criterion.

Table 3.7-1: Voluntary Greenhouse Gas Reduction Strategy Criteria		
Policies	Description of Project Measure	Project Conformance/ Applicability
BUILT ENVIRONMENT AND RECYCLING		
Installation of solar panels or other clean energy power generation sources on development sites, especially over parking areas MS-2.7, MS-15.3, MS-16.2	Solar panels are not included as a component of the proposed project.	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Not Proposed <p style="text-align: center;">or</p> <input type="checkbox"/> Not Applicable
Use recycled water wherever feasible and cost-effective (including non-residential uses outside of the Urban Service Area) MS-17.2, MS-19.4	Recycled water is not currently available to serve the project site.	<input type="checkbox"/> Required/Proposed <input type="checkbox"/> Not Proposed <p style="text-align: center;">or</p> <input checked="" type="checkbox"/> Not Applicable
TRANSPORTATION AND LAND USE		
Limit parking above code requirements TR-8.4	The number of parking spaces proposed by the project is above the City’s code requirements.	<input type="checkbox"/> Project is Parked at or below Code Requirements <input checked="" type="checkbox"/> Project is Parked above Code Requirements <p style="text-align: center;">or</p>

Table 3.7-1: Voluntary Greenhouse Gas Reduction Strategy Criteria		
Policies	Description of Project Measure	Project Conformance/ Applicability
		<input type="checkbox"/> Not Applicable
Car share programs. Promote car share programs to minimize the need for parking spaces TR-8.5	Car sharing programs are not proposed as part of the project.	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Not Proposed or <input type="checkbox"/> Not Applicable
Consider opportunities for reducing parking spaces (including measures such as shared parking, TDM, and parking pricing to reduce demand) TR-8.12	The number of parking spaces proposed by the project is above the code requirements.	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Project Does Not Propose or <input type="checkbox"/> Not Applicable

The proposed project is consistent with the applicable mandatory GHG Reduction Strategy goals and policies intended to reduce GHG emissions. **(Less than Significant Impact)**

Envision San José 2040 General Plan

The project is consistent with the General Plan and would meet the requirements of the City’s GHG Reduction Strategy. The project would also be required to comply with City Policy 6-32 and would result in a mixed-use development within a designated urban village. The project would provide pedestrian and bicycle connections through the site to nearby transit and services and provide bicycle parking, consistent with San José requirements. Therefore, the project is consistent with Policies CD-2.10, CD-2.11, CD-3.2, CD-5.1, LU-5.4, MS-2.3, MS-2.11, MS-14.4, TR-2.18, and TR-3.3.

3.7.2.3 Greenhouse Gas Emissions Impacts

Construction

The proposed development would result in temporary increases in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers’ personal vehicles traveling to and from the project site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. Because project construction would be a temporary condition and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the increase in emissions would be less than significant. **(Less Than Significant Impact)**

Operation

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. Since the project is consistent with the City's General Plan land use designation for the site and the land use assumptions of the GHG Reduction Strategy, compliance with the mandatory measures and voluntary measures required by the City would ensure its consistency with the City's GHG Reduction Strategy. Projects that are fully constructed and operational by January 1, 2021 and consistent with the GHG Reduction Strategy would not interfere with the implementation of AB 32 and would have a less than significant impact related to GHG emissions.

Based on information provided by the project applicant, it is estimated that the project would be fully constructed and operational by January 1, 2021. As such, the current 2020 GHG thresholds would apply. Given the size of the project and the potential unforeseen delays in permitting or construction activities, there is the potential for the project to extend beyond January 1, 2021.

The State has completed a Scoping Plan which will be utilized by BAAQMD to establish the 2030 efficiency threshold. The efficiency threshold would need to be met by individual projects in order for the State and local governments to comply with the SB 32 2030 reduction target. At this time BAAQMD has not published a quantified threshold for 2030. For the purposes of this analysis, however, a "Substantial Progress" efficiency metric of 2.6 MT CO₂e/year/service population has been calculated for 2030 based on the GHG reduction goals of Senate Bill 32 and Executive Order B-30-15, taking into account the 1990 inventory and the projected 2030 statewide population and employment levels. Assuming no additional GHG reduction measures would be included in the project, the project would generate approximately 2.96 MT CO₂e/SP per year and would be above the 2.6 MT CO₂e/year/service population threshold.⁴⁶

The proposed project would be required to build to the California Green Building Code (CALGreen) which includes design provisions intended to minimize wasteful energy consumption. In addition, the proposed development would be designed to achieve minimum LEED certification consistent with San José Council Policy 6-32, though no specific building measures have been identified at this time. Because no specific building measures have been identified, no GHG emissions reductions were taken, resulting in a conservative estimation of GHG emissions.

The General Plan FEIR (as amended) concluded that Citywide 2035 GHG emissions, which encompass emissions from the current project, are projected to exceed efficiency standards necessary to maintain a trajectory to meet long-term 2050 state climate change reduction goals. While the City's GHG Reduction Strategy includes adaptive management measures to incorporate additional GHG reduction measures in the future, there are uncertainties about the feasibility of achieving the sizable emissions reductions needed to meet California's long-term goal of an 80 percent reduction in GHG emissions compared to 1990 levels. The City's projected 2035 GHG emissions, without further substantial reductions, would constitute a cumulatively considerable contribution to global climate change by exceeding the average carbon-efficiency standard necessary to maintain a

⁴⁶ Per the Air Quality Analysis, the total GHG emissions of the project would be 8,033 MTCO₂e annually. This was divided by a service population of 2,705 persons which conservatively assumes 1,665 residents (2.86 persons per unit), one employee per 300 gross square feet of office space, and one employee per 250 gross square feet of retail.

trajectory to meet statewide 2050 goals as established by Executive Order S-3-05 and remain significant and unavoidable. Based on this conclusion, the City found that build out of the General Plan would have a significant and unavoidable GHG emissions impact beyond 2020 and adopted overriding considerations for development assumed under the General Plan.

The project is consistent with the development assumptions in the General Plan. As such, post-2020 GHG emissions from the project have been accounted for and already disclosed as a significant and unavoidable impact and accepted by the City Council in adopting the General Plan.

Impact GHG-1: Operation of the project will result in GHG emissions in excess of the “Substantial Progress” efficiency metric of 2.6 Metric Tons CO₂ per service population per year established by the California Air Resources Board 2017 Climate Change Scoping Plan to meet the 2030 reduction targets in Senate Bill SB32. **(Significant Impact)**

Mitigation and Avoidance Measures

The project applicant shall be required to implement the following mitigation measures to reduce the impacts of GHG emissions.

MM GHG-1.1: The project proposes to include a transportation demand management (TDM) plan. The TDM Plan will be finalized and approved by the City prior to issuance of occupancy permits and would include a combination of at least three of more of the following measures for each component of the project:

Office/Retail

- Provide on-site showers for employees.
- Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM Plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the employees are aware of transportation options. The TDM coordinator will provide the following services:
 - Provide information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool programs, Zipcar station locations, and ride matching services.
 - Assist with rideshare/carpool matching.
- Electric vehicle charging stations (and pre-wiring for future stations).
- Secure bicycle parking.
- Preferred carpool parking.
- Free or discounted transit passes for employees.

Residential

- Provide 100 percent unbundled parking for all residential spaces.
- Provide up-to-date transit information at a common area location(s) accessible to all residents.
- Provide an on-site TDM coordinator who will be responsible for implementing and managing the TDM Plan. The TDM coordinator will be a point of contact and will be responsible for ensuring that the site occupants are aware of transportation options. The TDM coordinator will provide the following services:
 - Provide new tenant information packets at the time of move-in. The packets would include information about public transit services, transit passes, bicycle maps, bike share information, rideshare/carpool programs, Zipcar station locations, and ride matching services.
 - Assist with rideshare/carpool matching.
- Carshare and/or bikeshare programs on-site.
- Electric vehicle charging stations (and pre-wiring for future stations).
- Free or discounted transit passes to all residents.
- Secure bicycle parking and bicycle repair stations.
- Free high-speed Wi-Fi for all tenants (to allow for telecommuting).

Similar to the building measures, because the TDM Plan has not yet been fully developed and quantified, no GHG emissions reductions were taken, resulting in a conservative estimation of GHG emissions.

Completion of the proposed project after January 1, 2021 would result in a significant and unavoidable GHG emissions impact. The project would not, however, result in a new impact or substantially increase the severity of the previously identified GHG emissions impact. **(Significant Unavoidable Impact)**

3.7.3 **Conclusion**

Development of the proposed project would have a less than significant construction GHG impact. **(Less Than Significant Impact)**

Implementation of the proposed project would have a less than significant operational GHG impact if the project is fully constructed and operational by January 1, 2021. If the project is not completed until after January 1, 2021, the operational GHG impact would be significant and unavoidable. **(Significant Unavoidable Impact)**

3.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on a Phase I Environmental Site Assessment (ESA) prepared for the project by *ERM Group, Inc.* in June 2016. A copy of the report is attached in Appendix D of this document.

3.8.1 Environmental Setting

3.8.1.1 *Regulatory Framework*

Hazardous materials encompass a wide range of substances including petroleum products, pesticides, herbicides, metals, asbestos, and chemical compounds used in manufacturing and other uses. Hazardous materials in various forms can cause death, serious injury, long-lasting health effects and damage to the environment. As a result, numerous laws and regulations were developed to regulate the management of hazardous materials and mitigate potential impacts.

Hazardous waste generators and hazardous materials users in the City are required to comply with regulations enforced by several Federal, State, and County agencies. The regulations are designed to reduce the risk associated with the human exposure to hazardous materials and minimize adverse environmental effects. State and Federal construction worker health and safety regulations require protective measures during construction activities where workers may be exposed to asbestos, lead, and/or other hazardous materials.

The United States Environmental Protection Agency (EPA) is the Federal administering agency for hazardous waste programs. State agencies include the California Environmental Protection Agency (CAL/EPA), Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and the California Air Resources Control Board (CARB). Regional agencies include the San Francisco Bay Regional Water Quality Control Board (RWQCB), and BAAQMD. Local agencies including the San Jose Fire Department (SJFD) and the Santa Clara County Department of Environmental Health (SCCDEH) have been granted the responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program. The Santa Clara Valley Water District (SCVWD) monitors groundwater quality and supports groundwater clean-up efforts.

Existing City regulations that reduce or avoid impacts with hazards and hazardous materials include:

- City of San Jose Hazardous Materials Release Response Plans and Inventory
- City of San Jose Hazardous Materials Storage Ordinance and Toxic Gas Ordinance
- City of San Jose Building and Fire Codes
- City of San Jose Municipal Code (Chapters 6.14, 17.12, 17.88, and 20.80)

Envisions San José 2040 General Plan

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

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.

3.8.1.2 *Setting*

Historical Uses of the Project Site

Based on the Phase I ESA, the project site was undeveloped from 1889 to 1939. Orchards were present on-site in 1939. By 1953, the project site was developed with houses and orchards. By 1973, the present-day buildings appeared on-site and have remain unchanged. Tenants listed since 1975 include financial services, insurance, tutoring, magazines, transportation services, driving school, staffing, software businesses, healthcare offices, carpet cleaning, and furniture equipment, though the exact nature of some of these businesses is undocumented.

Historical Uses of the Surrounding Land Uses

The project area was used as orchards from the 1930s to the early 1970s. By the 1980s, the project area was fully developed with residential and commercial development.

Current Site Uses

The buildings on-site are currently occupied by a restaurant, various office businesses (such as accounting and technology firms), and medical offices.

3.8.1.3 *On-Site Sources of Contamination*

The project site has not been identified in any regulatory agency databases for hazardous materials spills or releases. Since the project site was used for agricultural purposes from the 1930s until early 1970s, pesticides may have been applied to crops in the normal course of farming operations. The possible historic pesticide use on-site could have resulted in the accumulation of residual pesticides (e.g., DDT compounds, arsenic, and lead) in the shallow soil on-site.

Asbestos Containing Materials

The existing buildings were constructed between 1973 and 1974. Due to the age of the buildings, asbestos-containing materials (ACMs) are likely present on-site. Friable asbestos is any ACM that, when dry, can easily be crumbled or pulverized to a powder by hand allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes.

Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and transite siding made with cement. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material.

ACMs are of concern because exposure to ACMs has been linked to cancer. ACMs are defined by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR), however, defines asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight. Use of friable asbestos products was banned in 1978.

Lead-Based Paint

Lead-based paint is a concern, both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead in interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million [ppm]) and in 1978, to 0.06 percent (600 ppm). In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. Given the age of the existing buildings, lead-based paint is likely present on-site.

3.8.1.4 *Off-Site Sources of Contamination*

The potential for off-site contamination sources to impact soil, soil vapor, or groundwater beneath the site was determined by evaluating the type of spills incidents reported in the site's vicinity and the location of where the off-site incidents occurred in relation to the site, and the groundwater flow direction beneath the off-site facilities. Reported nearby spills are listed in Table 3.9-1.

Address	Location	Database Listings	Hazardous Materials of Issue	Status
4343 Stevens Creek Boulevard	79 feet north (down-gradient)	HAZMAT, RCRA SQG, RCRA NLR, LUST	The site is listed for multiple leaking gasoline and waste oil USTs.	The contaminated soil was excavated and the case was closed by 1996.

Table 3.9-1: Off-Site Contamination (Within One Mile of Project Site)

Address	Location	Database Listings	Hazardous Materials of Issue	Status
4250 Stevens Creek Boulevard	264 feet east (cross-gradient)	SWEEPS USTS	A 500-gallon waste oil tank and a waste antifreeze tank were located between 4202 and 4250 Stevens Creek Boulevard.	A subsurface investigation found oil and grease at a maximum concentration of 85 milligrams per kilogram and the case was closed by 1995.
<p>Notes: Resource Conservation and Recovery Act (RCRA) Small Quantity Generators (SQG) Leaking Underground Storage Tank (LUST) Statewide Environmental Evaluation and Planning System (SWEEPS UST)</p>				

3.8.2 Hazards and Hazardous Materials Impacts

3.8.2.1 Thresholds of Significance

For the purposes of this EIR, a hazards and hazardous materials impact is considered significant if the project would:

- Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials;
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- 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;
- 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;
- 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;
- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- 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.

3.8.2.2 *Consistency with Plans and Policies*

The project site is not located within an airport safety zone. There is a probability of soil contamination on-site due to agricultural operations, as well as asbestos and lead-based paint. Mitigation measures and standard abatement measures have been identified to reduce potential health risks associated with on-site contaminants to less than significant. Therefore, the project is consistent with Policies EC-7.1, EC-7.2, EC-7.4, and CD-5.8.

3.8.2.3 *Hazardous Materials Impacts from the Project*

The project site is not listed as a hazardous waste or substances site on any regulatory database and, therefore, would not result in a significant hazards to the public or environmental due to accidental chemical releases. **(Less than Significant Impact)**

The nearest school to the project site is Sierra Elementary School located at 220 Blake Avenue in Santa Clara, approximately 0.3 miles north of the site. Since the nearest school is more than one-quarter mile from the site, emissions and hazardous materials used at the site during project construction or operation would not pose a significant health risk to nearby schools. **(No Impact)**

Project Operation Impacts

Operation of the proposed office, retail, and residential development would include the use and storage of cleaning supplies and maintenance chemicals in small quantities, similar to the operations and former operations of the existing buildings, as well as nearby businesses. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and maintenance chemicals that would be transported, used and stored on-site, would not generate substantial hazardous emissions or accidental chemical releases that would pose a risk to site users or adjacent residential land uses. Compliance with applicable federal, state and local handling, storage, and disposal requirements would ensure that no significant hazards to adjacent residences are created by the routine transport, use, or disposal of hazardous substances. **(Less Than Significant Impact)**

Project Construction Impacts

Soil Contamination Impacts

The project site is not listed as a hazardous waste or substances site on a regulatory database. Construction on the project site could, however, disturb on-site soils with residual agricultural pesticide contamination, and expose construction workers and/or nearby residential receptors to elevated concentrations of pesticide chemicals.

Impact HAZ-1: Implementation of the proposed project could release pesticide chemicals from on-site soils into the environment, and expose construction workers and/or nearby residential receptors to residual agricultural soil contamination. **(Significant Impact)**

Mitigation and Avoidance Measures

The project applicant shall be required to implement the following mitigation measures to reduce the impacts of potential on-site soil contamination to a less than significant level.

MM HAZ-1.1: After demolition but prior to the issuance of grading permits, a qualified environmental specialist shall collect shallow soil samples, from the native soil layers within the surface lots and have the samples analyzed to determine if contaminated soil from previous agricultural operations is located on-site with concentrations above established construction/trench worker and residential thresholds. The soil shall be tested for organochlorine pesticides and pesticide based metals, arsenic and lead. Once the soil sampling analysis is complete, a report of the findings will be provided to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for review.

MM HAZ-1.2: If contaminated soils are found in concentrations above established regulatory environmental screening levels, the applicant shall enter into the Santa Clara County Department of Environmental Health's (SCCDEH) Voluntary Cleanup Program (VCP) to formalize regulatory oversight for remediation of contaminated soil to ensure the site is safe for construction workers and the public after development. The project applicant must remove contaminated soil in order to achieve detection levels acceptable to the SCCDEH. With approval of the SCCDEH, some of the contaminated soil may be allowed to be left in-place buried under hardscape and/or several feet of clean soil.

The project applicant shall prepare and implement a Removal Action Plan, Soil Mitigation Plan or other similar report describing the remediation process and to document the removal and/or capping of contaminated soil. All work and reports produced shall be performed under the regulatory oversight and approval of the SCCDEH.

With implementation of the proposed mitigation, the project would have a less than significant impact to construction workers and nearby residential receptors. **(Less Than Significant Impact With Mitigation)**

Asbestos Containing Materials and Lead-Based Paint Impacts

The project proposes to demolish the existing five buildings on-site. Given the age of structures on-site, it is likely that these buildings contain ACMs and/or lead-based paint. Demolition of these structures could expose construction workers in the vicinity of the project site to harmful levels of ACMs or lead.

Suspected ACMs would be required to be properly assessed prior to demolition consistent with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. The NESHAP requires the removal of all potentially friable ACMs prior to building demolition.

If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. It is necessary, however, to follow the requirements outlined by Cal-OSHA Lead in Construction Standard, Title 8, California Code of Regulation (CCR) 1532.1 during demolition activities; these requirements include employee training, employee air monitoring, and dust control.

If lead based paint is peeling, flaking, or blistered, it shall be removed prior to demolition. It is assumed that such paint would become separated from the building components during demolition activities and must be managed and disposed of as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

The project is required to conform to the following regulatory programs and to implement the following standard project conditions, consistent with OSHA requirements, to reduce impacts due to the presence of ACMs and/or lead-based paint:

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

The General Plan FEIR (as amended) concluded that conformance with Federal, State, and local regulatory requirements would result in a less than significant impact from ACMs and Lead. **(Less Than Significant Impact)**

3.8.2.4 *Other Hazards*

The project would be accessible from new driveways along Stevens Creek Boulevard and Albany Drive, which would provide access to the proposed residential and office buildings. The proposed roadways would be accessible to emergency vehicles at all times. The project would, therefore, not interfere with any emergency response or evacuation plans. **(No Impact)**

The project site is not located in an area prone to wildfires and would not result in a wildfire hazard to adjacent occupied structures. **(No Impact)**

3.8.2.5 Existing Hazardous Materials Conditions Affecting the Project

On December 17, 2015, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are discussed below.

Impacts from Historic Site Operations

As mentioned previously, soils on-site could be contaminated with residual pesticide chemicals from past agricultural operations. Because contaminated soils would be hauled off-site and/or contained and capped with asphalt in accordance with the proposed soil management plan (see mitigation measures HAZ-1.1 and HAZ-1.2), on-site soil contamination would not pose a health risk to future site users of the project site. Therefore, the project would be consistent with Policy EC-7.2.

Impacts of Off-Site Facilities on the Project

The Phase I ESA identified two hazardous materials sites within one mile of the project site, as shown on Table 3.9-1. All recorded violations on these sites have been closed or monitoring data shows contaminant levels below acceptable regulatory levels. Furthermore, the sites were down-gradient and cross-gradient from the project site. Due to the depth of groundwater at the project site and the location of the site to the releases (relative to the direction of groundwater flow), any residual contaminants in the groundwater would not impact the project site. The proposed project would not pose a safety risk to future site users and would be consistent with Policy EC-7.

Impacts of Airport Operations on the Project

The nearest airport to the project site is Mineta San José International Airport, located approximately 3.67 miles northeast of the project site. The project site is not within the Santa Clara County Airport Land Use Commission’s Airport Influence Area or near a private airstrip. Nevertheless, Federal Aviation Regulations, Part 77 “Objects Affecting Navigable Airspace” (referred to as FAR Part 77), requires that the Federal Aviation Administration (FAA) be notified of a certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport’s runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any structure exceeding approximately 90 feet in height above ground level would require submittal to the FAA for airspace safety review. As the proposed heights residential buildings and the parking structure would be below 90 feet. The office building would, however, be 91 feet above ground level (100 feet with mechanical screening), the project is required to be submitted to the FAA for FAR Part 77 airspace safety review. Subsequent FAA issuance of a “Determination of No Hazard” for each of the proposed structure high points, and compliance with any conditions set forth by the FAA in its determinations, would ensure that project development would not be a potential aviation hazard. As a result, future site users would not be subject to airport hazards and the project would be consistent with Policy CD-5.8.

3.8.3 Conclusion

With implementation of identified mitigation measures, applicable General Plan policies, and existing regulations, the proposed project would have a less than significant hazardous materials impact. **(Less Than Significant Impact With Mitigation)**

3.9 HYDROLOGY AND WATER QUALITY

3.9.1 Environmental Setting

3.9.1.1 *Regulatory Framework*

Federal, State, and Regional

Water Quality Overview

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

Basin Plan

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

Statewide Construction General Permit

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

All development projects, whether subject to the Construction General Permit or not, shall comply with the City of San Jose's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30), the project will submit to the Director of Public Works an Erosion Control Plan detailing best management practices that will prevent the discharge of stormwater pollutants.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP) that covers the project area. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

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

National Flood Insurance Program

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

Dam Safety

Dam failure is the uncontrolled release of impounded water behind a dam. Flooding, earthquakes, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, and terrorism can all cause a dam to fail.⁴⁷ Because dam failure that results in downstream flooding may affect life and property, dam safety is regulated at both the federal and state level. Dams under the jurisdiction of the California Division of Safety of Dams are identified in California Water Code Sections 6002, 6003, and 6004 and regulations for dams and reservoirs are included in the California Code of Regulations. In accordance with the state Dam Safety Act, dams are inspected regularly and detailed evacuation procedures have been prepared for each dam.

⁴⁷ State of California. 2013. *2013 State Hazards Mitigation Plan*. Accessed: July 26, 2017. Available at: http://hazardmitigation.calema.ca.gov/plan/state_multi-hazard_mitigation_plan_shmp.

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

Santa Clara Valley Water District

The SCVWD operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within SCVWD property or easements are required under the SCVWD's Water Resources Protection Ordinance and District Well Ordinance.

City of San Jose

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCM) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surface area to use site design and source control measures and numerically-sized Low Impact Development (LID) stormwater treatment measures in accordance with the strategies set forth in the policy.

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Envision San José 2040 General Plan

The General Plan includes hydrology and water quality policies applicable to the proposed project.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Policy ER-8.1: Manage stormwater runoff in compliance with the City’s Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

3.9.1.2 Existing Conditions

Flooding

Based on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps (Map No. 06085C0228H, dated May 18, 2009), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard. There are no floodplain requirements for Zone D.

Dam Failure

Based on the SCVWD dam failure inundation maps, the project site is outside the Anderson Dam and Lexington Reservoir failure inundation hazard zones.^{48,49}

Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami.⁵⁰ The site is located on the nearly flat valley floor topography and is not subject to the risk of mudflows.

Storm Drainage System

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Saratoga Creek located approximately 0.8 miles west of the site. Saratoga Creek flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

⁴⁸ Santa Clara Valley Water District. *Lexington Reservoir 2009 Flood Inundation Maps*. 2016. Accessed: March 7, 2018. Available at: <http://www.valleywater.org/Services/LexingtonReservoirAndLenihanDam.aspx>.

⁴⁹ Santa Clara Valley Water District. *Anderson Dam EAP 2009 Flood Inundation Maps*. 2016. Accessed: March 7, 2018. Available at: <https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf>

⁵⁰ Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region*. Accessed: November 11, 2016. Available at: <http://quake.abag.ca.gov/tsunamis>.

Currently, 85 percent of the entire project site is covered with impervious surfaces. There are existing storm drain lines that run along the northern and southern boundary of the site that serve the existing development and would also serve the proposed development.

Stormwater Runoff

Water Quality

The water quality of Saratoga Creek is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Currently, Saratoga Creek is listed on the California 303(d) list⁵¹ for pesticides and trash.⁵²

3.9.1.3 Groundwater

Historic high groundwater levels within the vicinity of the site have been encountered at a depth of approximately 30 to 40 feet bgs. Groundwater levels fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The project site is mostly comprised of impervious surfaces and does not contribute to the recharging of the groundwater aquifer.

3.9.2 Hydrology and Water Quality Impacts

3.9.2.1 Thresholds of Significance

For the purposes of this EIR, a hydrology and water quality impact is considered significant if the project would:

- Violate any water quality standards or waste discharge requirements;
- 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 (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);
- 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;
- 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;
- Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;

⁵¹ The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.

⁵² United States Environmental Protection Agency. *California 303(d) Listed Waters*. Accessed: July 20, 2017. Available at:

http://iaspub.epa.gov/tmdl_waters10/attains_impaired_waters.impaired_waters_list?p_state=CA&p_cycle=2012.

- Otherwise substantially degrade water quality;
- 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;
- Place within a 100-year flood hazard area structures which would impeded or redirect flood flows;
- 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; or
- Inundation by seiche, tsunami, or mudflow.

3.9.2.2 *Consistency with Plans and Policies*

The proposed project shall comply with all applicable Federal, State, and local water quality and stormwater quality control standards and permits, as well as all regulations pertaining to flood zones. Therefore, the project would be consistent with FEMA regulations, the Federal CWA, the SWRCB NPDES programs for construction and post-construction, San José Council Policies 6-29 and 8-14, and General Plan Policies ER-8.1, ER-8.3, ER-8.5, EC-4.1, and EC-5.16.

3.9.2.3 *Water Quality Impacts*

Construction Impacts

Construction of the proposed project would include demolition, excavation and grading activities on-site. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. Because the project would disturb more than the one acre of land, the project would be required to comply with the general stormwater permit and prepare a SWPPP for construction activities.

Pursuant to the City’s requirements, the following measures, based on RWQCB recommendations, have been included in the project as Standard Permit Conditions to reduce potential construction-related water quality impacts:

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities would be suspended during periods of high winds.
- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
- Vegetation in disturbed areas would be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

The General Plan FEIR (as amended) concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Implementation of the identified construction measures and compliance with the NPDES General Construction Permit, construction of the proposed project would have a less than significant impact on water quality. **(Less Than Significant Impact)**

Post-Construction Impacts

Currently, approximately 85 percent (379,392 square feet) of the project site is comprised of impervious surfaces. Implementation of the project would reduce impervious surfaces on-site by approximately 10 percent (46,612 square feet). Because the project would add or replace more than 10,000 square feet of impervious surfaces, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater permit.

In order to meet these requirements, the project must treat all of the post-construction stormwater runoff with numerically sized LID treatment controls unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. The project is located within a Priority Development Area and qualifies as a Special Project (Category C – Transit Oriented Development). The project proposes flow through planters, pervious pavement, and mechanical filters.

If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes why the implementation of 100 percent LID treatment measures is not feasible, in accordance with the MRP.

Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the MRP (NPDES Permit Number CAS612008), shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

The General Plan FEIR (as amended) concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project and any future development under the proposed General Plan amendment would have a less than significant water quality impact. **(Less Than Significant Impact)**

3.9.2.4 *Groundwater Impacts*

Under project conditions, the impervious surface area on-site would be reduced by approximately 10 percent (46,612 square feet). Development and redevelopment of new residential, commercial, or industrial uses allowed under the General Plan is not proposed to occur within any of the SCVWD’s percolation facilities for groundwater recharge nor would it otherwise affect the operation of the percolation or recharge facilities. As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in overall groundwater supply. **(Less Than Significant Impact)**

As mentioned in *Section 3.9.1.3*, historic high groundwater levels within the vicinity of the site have been encountered at a depth of approximately 30 to 40 feet bgs. The proposed project would include excavation for underground parking and trenching for utilities, but ground disturbances would not exceed 20 feet in depth. Therefore, development of the project would not interfere with groundwater flow or impact the groundwater aquifer. **(Less Than Significant Impact)**

3.9.2.5 *Drainage Pattern Impacts*

The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. As a result, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff. **(Less Than Significant Impact)**

3.9.2.6 *Storm Drainage Impacts*

Table 3.10-1, below, gives a breakdown of the pervious and impervious surfaces on the project site under both existing and project conditions.

Table 3.10-1: Pervious and Impervious Surfaces On-Site						
Site Surface	Existing/Pre-Construction (sf)	%	Project/Post-Construction (sf)	%	Difference (sf)	%
Impervious						
Building Footprint	103,809	23	268,087	60	+164,278	+37
Hardscape	275,583	62	64,693	15	-210,890	-47
<i>Subtotal</i>	379,392	85	332,780	75	-46,612	-10
Pervious						
Pavement and Landscape	66,505	15	113,117	25	+46,612	+10
Total	445,897	100	445,897	100		

Under existing conditions, approximately 85 percent (379,392 square feet) of the site is covered with impervious surfaces. Under project conditions, the impervious surfaces on-site would be reduced by approximately 10 percent (46,612 square feet), which would result in a net decrease in stormwater runoff compared to current site conditions.

The General Plan FEIR (as amended) concluded that implementation of applicable City policies and existing regulations and adopted plans would reduce drainage hazards. As a result, implementation of the proposed project would have a less than significant impact on the existing storm drainage system. **(Less Than Significant Impact)**

3.9.2.7 *Seiches, Tsunamis, and Mudflows*

There are no bodies of water near the project site that would affect the project area in the event of a seiche or tsunami. The project area is flat and there are no mountains in proximity. As a result, development of the project site would not cause mudflows that would impact adjacent properties. **(Less Than Significant Impact)**

3.9.2.8 *Existing Flooding Conditions Affecting the Project*

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. flooding) affecting a proposed project, which are addressed below.

The project site is located in Flood Zone D; an area of undetermined but possible flood hazard. Implementation of the project would not expose people or structures to significant flood hazards in compliance with City policies.

The project site is located outside of the Lexington Reservoir and Anderson Dam failure inundation zones. The SCVWD maintains and inspects the dams at the reservoirs and provides an annual report of the reservoir's condition. As a result, the probability of a dam failure is very low. The General Plan FEIR (as amended) concluded that new development and redevelopment under the General Plan could result in placement of new development in Special Flood Hazard Areas and dam failure inundation zones, and implementation of the City's policies and regulations would substantially reduce flooding and drainage hazards.

3.9.3 **Conclusion**

Implementation of the proposed project would have a less than significant water quality and hydrology impact. **(Less Than Significant Impact)**

3.10 LAND USE AND PLANNING/POPULATION AND HOUSING/AGRICULTURAL RESOURCES

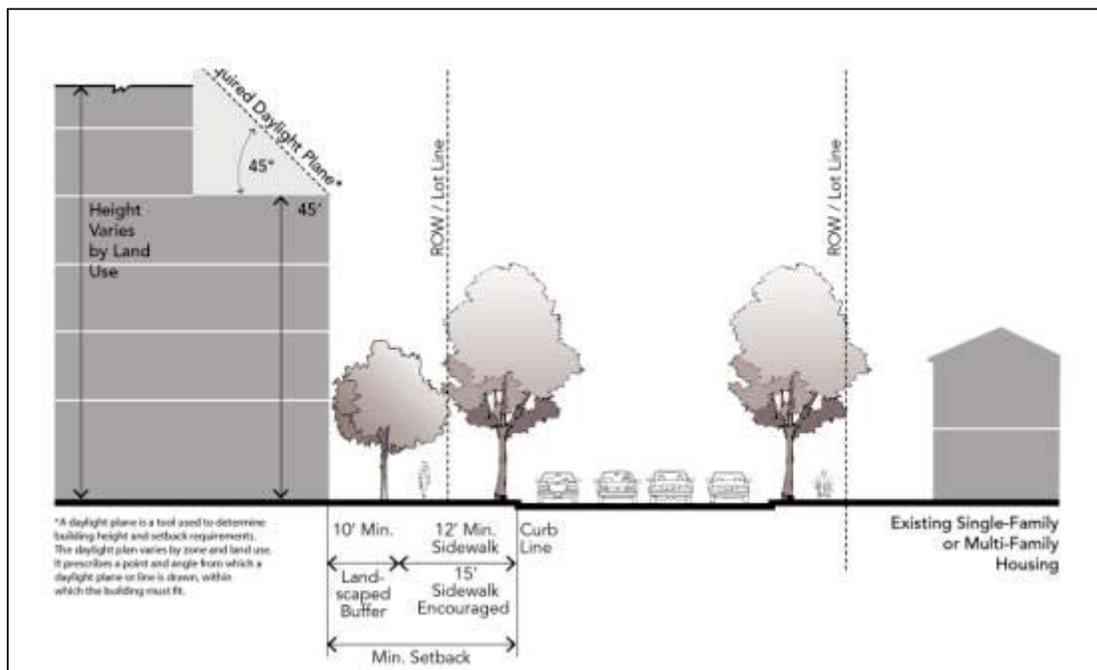
3.10.1 Environmental Setting

3.10.1.1 *Regulatory Framework*

The project site is designated *Urban Village* under the City of San Jose’s General Plan and is located within the adopted Stevens Creek Boulevard Urban Village Plan. The site is zoned *CG – Commercial General*.

Under the Stevens Creek Boulevard Urban Village Plan, the *Urban Village* designation allows for a wide range of commercial uses, including retail sales and services, professional and general offices, and institutional uses. This designation also allows residential uses within a mixed-use development. The Urban Village Plan does not establish a maximum floor area ratio (FAR) for commercial or mixed residential/commercial development within the *Urban Village* designation, but does establish a minimum number of residential dwelling units per acre. Commercial development is limited only by the maximum height limits allowed under the Urban Village Plan. The allowable residential density is 65 to 250 dwelling units per acre.

Allowable building heights are determined by adjacent land uses and the requirement to not intercept a 45-degree daylight plane inclined inward from the proposed building edge as demonstrated in the illustration below.



Source: Steven Creek Boulevard Urban Village Plan, Chapter 4, page 77

Setbacks are determined by land use type, adjacent streets, and adjacent land uses. For the project site, the Urban Village Plan urban design standards require the following setbacks:

- A 22-foot setback (12-foot sidewalk and 10-foot landscaped buffer) for development facing existing residential uses on Albany Way.
- A front setback is required along the ground floor of non-residential development fronting Stevens Creek Boulevard that will accommodate a minimum 20-foot wide pedestrian environment.
- A front setback is required along the ground floor of residential development fronting Stevens Creek Boulevard that will accommodate a minimum 25-foot wide pedestrian environment.

The CG zoning 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. Building heights are limited to 65 feet.

The following Urban Village Plan policies are applicable to the proposed project.

Policy LU-1.2: Within the Mixed Use Commercial, Urban Residential, or Urban Village land use designations, existing commercial or industrial square footage shall be replaced with an equivalent commercial square footage in the new residential or residential mixed use development.

Policy LU-1.3: Require a minimum overall commercial Floor Area Ratio (FAR) for the area designated with an Urban Village Land Use Designation of 0.25. New development that includes residential uses should not be developed such that the combined FAR of the area designated Urban Village drops below 0.25.

Policy LU-2.2: New development along Stevens Creek Boulevard, Kiely Boulevard, Saratoga Avenue, and Albany Drive should include ground floor commercial and/or active spaces such as lobbies fronting the street and wrapping the corner when located on a corner lot.

Policy LU-2.4: Residential projects utilizing the Envision San Jose 2040 General Plan “Residential Pool” policy (Policy IP-2.11), which can allow residential mixed-use projects prior to the opening of an urban village’s designed horizon, shall replace any existing commercial square footage on the development site or provide a minimum commercial FAR of 0.9, whichever is greater.

Policy LU-2.5: Residential mixed-use projects utilizing the residential pool must build the commercial and residential portions of the development concurrently.

Policy LU-3.4: New development should consider how their land uses support and enhance the pedestrian and bicycle environment and provide greater connectivity to the overall network.

Envision San José 2040 General Plan

The General Plan includes the following policies applicable to the proposed project.

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and

development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy IP-5.10: Allow non-residential development to proceed within Urban Village areas in advance of the preparation of an Urban Village Plan. In addition, a residential, mixed-use “Signature” project may also proceed ahead of preparation of a Village Plan. A Signature project clearly advances and can serve as a catalyst for the full implementation of the Envision General Plan Urban Village strategy. A Signature project may be developed within an Urban Village designated as part of the current Plan Horizon, or in a future Horizon Urban Village area by making use of the residential Pool capacity. A residential, mixed-use Signature project may proceed within Urban Village areas in advance of the preparation of an Urban Village Plan if it fully meets the following requirements:

1. Within the Urban Village areas, Signature projects are appropriate on sites with an Urban Village, residential, or commercial Land Use / Transportation Diagram designation.
2. Incorporates job growth capacity above the average density of jobs/ acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature project that include housing, those portions incorporate housing density at or above the

average density of dwelling units per acre planned for the entire Village Planning area. The commercial/office component of the Signature project must be constructed before or concurrently with the residential component.

3. Is located at a visible, prominent location within the Village so that it can be an example for, but not impose obstacles to, subsequent other development within the Village area.

Additionally, a proposed Signature project will be reviewed for substantial conformance with the following objectives:

4. Includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.
5. Achieves the pedestrian friendly design guideline objectives identified within this General Plan.
6. Is planned and designed through a process that provided a substantive opportunity for input by interested community members.
7. Demonstrates high-quality architectural, landscape and site design features.
8. Is consistent with the recommendations of the City's Urban Design Review process or equivalent recommending process if the project is subject to review by such a process.

Stevens Creek Boulevard Urban Village Plan

The Stevens Creek Boulevard Urban Village Plan includes the following land use policies applicable to the proposed project:

Policy LU-1.7: Planned development zonings and discretionary development permits that are applying under the "Signature Project" policy, as defined in the Envision San Jose 2040 General Plan may continue to move forward as such, and will not be required to be in conformance with this Urban Village Plan. All of the "Pipeline" applications benefiting from this policy must have been submitted to the City, including full payment of initial application fees, prior to adoption of this Urban Village Plan.

Policy UD-2.1: Ensure proposed private development along Stevens Creek Boulevard, Kiely Boulevard, and Saratoga Avenue include setbacks that provide space for wider sidewalks, landscaping, outdoor gathering places and/or other pedestrian amenities.

Policy UD-2.2: Encourage the placement of ground-floor commercial space in new development especially along the street frontages of Stevens Creek Boulevard, Kiely Boulevard, and Saratoga Avenue.

Policy UD-2.3: Explore creative strategies and opportunities to integrate community spaces including parks, plazas, open spaces, indoor/ outdoor event spaces, and community centers into new development.

Policy UD-3.1: Consider strategies such as providing mid-block connections and breaking up long blocks, consistent with the multi-modal connectivity goals and policies of this Plan.

3.10.1.2 Existing Conditions

Project Site

The 9.9-acre project site is comprised of three parcels (APNs 296-38-013, 296-38-014, 296-40-009) located on the south side of Stevens Creek Boulevard, to the east and west of Lopina Way. The project site is currently developed with three two-story office buildings, two one-story commercial building, and surface parking lots. The project site is accessed by a driveway on Stevens Creek Boulevard, three driveways on the west side of Lopina Way, three driveways on the east side of Lopina Way, and two driveways on Albany Drive. Lopina Way is a north-south, two-lane local roadway that extends from Stevens Creek Boulevard to Albany Drive.

Surrounding Land Uses

Development in the project area is a mix of commercial/retail and residential land uses. Building heights vary by land use from one- to three-stories. Located immediately north of the project site is Stevens Creek Boulevard, a six-lane roadway with a center turn median. North of Stevens Creek Boulevard are multiple car dealerships. There are also car dealerships immediately east and west of the site.

South of the project site is Albany Drive, a two-lane local roadway that extends from Stevens Creek Boulevard to Kiely Boulevard. South of Albany Drive are two, two- to three-story multi-family apartment complexes.

3.10.2 Land Use and Planning Impacts

3.10.2.1 *Thresholds of Significance*

For the purposes of this EIR, a land use and planning, agricultural, or population and housing impact is considered significant if the project would:

- Physically divide an established community;
- 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; or
- Conflict with any applicable habitat conservation plan or natural community conservation plan.
- Convert prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses;
- Conflict with existing zoning for agricultural use, or a Williamson Act contract;
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use;

- Induce substantial population growth in an area, either directly or indirectly;
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

3.10.2.2 *Consistency with Plans and Policies*

The proposed project would be pedestrian oriented and designed in accordance with applicable design standards. The proposed pedestrian promenade would provide a link between the existing residences south of the project site and transit and services on Stevens Creek Boulevard. The residential parking would be located underneath the residential buildings. The office parking garage would be located along Albany Drive, and no parking would be provided along the main roadway (i.e., Stevens Creek Boulevard) frontage. Therefore, the project would be consistent with General Plan Policies CD-1.1, CD-1.8, CD-1.12, CD-1.17, CD-1.23, and IP-5.10.

The proposed project would include appropriate setbacks for pedestrian amenities, locate ground floor retail along Stevens Creek Boulevard, and install a mid-block pedestrian crossing on Stevens Creek Boulevard. In addition, the project includes a publicly accessible open space promenade. Therefore, the project would be consistent with Urban Village Policies UD-2.1, UD-2.2, UD-2.3, and UD-3.1.

As the proposed project was submitted prior to adoption of the Stevens Creek Boulevard Urban Village Plan, it is considered a “Signature Project” pursuant to General Plan Policy IP-5.10 and Stevens Creek Boulevard Urban Village Plan Policy LU-1.7. To be considered a Signature Project, the project must meet all of the criteria outlined in General Plan Policy IP-5.10, including:

1. Within the Urban Village areas, Signature projects are appropriate on sites with an Urban Village, residential, or commercial Land Use / Transportation Diagram designation.
2. The project incorporates job growth capacity above the average density of jobs per acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature project that include housing, those portions incorporate housing density at or above the average density of dwelling units per acre planned for the entire Village Planning area. The commercial/office component of the Signature project must be constructed before or concurrently with the residential component.
3. The project is located at a visible, prominent location within the Village so that it can be an example for, but not impose obstacles to, subsequent other development within the Village area.

Additionally, a proposed Signature project will be reviewed for substantial conformance with the following objectives:

4. The project includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.

5. Achieves the pedestrian friendly design guideline objectives identified within the General Plan.
6. Is planned and designed through a process that provided a substantive opportunity for input by interested community members.
7. Demonstrates high-quality architectural, landscape and site design features.
8. Is consistent with the recommendations of the City's Urban Design Review process or equivalent recommending process if the project is subject to review by such a process.

The project meets the above requirements because: it is located on a site with an Urban Village General Plan land use designation; it will exceed the average jobs density planned in the Stevens Creek Boulevard Urban Village by providing 233,000 to 315,000 square feet of commercial/office space (out of an average jobs density of approximately 192,540 square feet planned for the entire Urban Village); and the project meets or exceeds the planned residential density of the Stevens Creek Urban Village by providing a density of 110 dwelling units per acre. The project is also located in a visible, prominent location on Stevens Creek Boulevard, a major arterial within the City; includes approximately 1.4 acres of publicly accessible, privately maintained open space with frontages on Stevens Creek Boulevard and Albany Drive; and the project is pedestrian oriented overall by providing pedestrian scaled architectural features (such as, but not limited to, shade structures,) and pedestrian amenities (such as, but not limited to ground floor retail tenant spaces that are built close to the sidewalk, street trees and private trees along the publicly accessible, privately maintained open space). Public outreach for the project included two community meetings, consistent with the City Council Policy on Public Outreach. Lastly, the project exemplifies high-quality design by incorporating high-quality materials, treating the building in an aesthetic manner and providing activation elements within the publicly accessible, privately maintained open space.

3.10.2.3 *Consistency with the General Plan and Zoning*

The proposed project would result in the construction of up to 582 residential units and 315,000 square feet office/commercial (including up to 22,000 square feet of retail). In addition, the project proposes to relocate Lopina Way to the eastern boundary of the site to allow for an open space promenade. The proposed residential component would have a density of 110 dwelling units per acre. Buildings A and C, located along the Stevens Creek Boulevard frontage, would be approximately 100 feet tall and 95 feet tall, respectively. Building D, located along Albany Way, would be 95 feet tall along the north façade, stepping down to between 21.5 and 52 feet along Albany Drive. The parking structure, also located along Albany Way, would be approximately 42 feet tall. The Stevens Creek Urban Village Plan allows heights up to 120 feet for the project site, and therefore, the project complies with the heights allowed in the Urban Village Plan.

As proposed, the project would have a 10-foot sidewalk along Albany Drive with building setbacks ranging from 5 to 15 feet. This would provide 15 to 25 feet of setback from the street. Along Stevens Creek Boulevard, there would be a 15-foot sidewalk (including a five-foot right of way dedication. Building C has a minimum 10 foot setback from the sidewalk and Building A has a minimum eight-foot setback. The Stevens Creek Urban Village Plan includes guidance on setbacks from Albany and Stevens Creek Boulevard in addition to providing guidance on setbacks for

buildings located next to existing non-residential uses. The Urban Village Plan states that a 22-foot setback, including a 12-foot sidewalk and 10-foot landscaped buffer be provided for development facing existing residential uses across Albany Drive. The project is providing a maximum setback of 25 feet, including the 10-foot sidewalk and a varying landscape buffer from five feet to 15 feet. The Urban Village Plan states that a minimum 20-foot wide pedestrian environment along the ground floor of a non-residential development fronting onto Stevens Creek Boulevard and a minimum 25-foot pedestrian environment along the ground floor of a residential development fronting onto Stevens Creek Boulevard. The office component of the project proposes a 23-foot buffer, including a 15-foot sidewalk and eight-foot setback from the proposed commercial building. The residential component of the project is providing a varied setback of five feet to 12 feet with a 15-foot sidewalk. Lastly, the project is not providing a step back from the existing non-residential use located directly west of the project site.

The project is mostly consistent with the Urban Village Plan. Nevertheless, as a Signature Project, the project is not subject to the requirements or guidelines in the Stevens Creek Urban Village Plan and is allowed under the General Plan. **(Less Than Significant Impact)**

The current zoning designation is not consistent with the specific development proposed for the project site. The project site would need to be rezoned to allow any future redevelopment of the site. As a result, the project proposes a rezoning to (CP)PD – Planned Development consist with the proposed mixed-use project. **(Less Than Significant Impact)**

3.10.2.4 *Land Use Impacts*

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. 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. Depending on the nature of the impact and its severity, land use compatibility conflicts can range from minor irritations and nuisance to potentially significant effects on human health and safety. The discussion below distinguishes between potential impacts *from* the proposed project *upon* persons and the physical environment, and potential impacts *from* the existing surroundings *upon* the project itself.

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a mixed residential/commercial development located within a designated Urban Village on a major transportation corridor. This area is a mix of office, commercial/retail, and residential land uses. The General Plan FEIR (as amended) evaluated potential land use impacts resulting from high intensity development within Urban Villages adjacent to low density residential neighborhoods. These impacts could include visual intrusion from building height, shade and shadow impacts, noise, litter, and parking spillover.

The project, as proposed, is consistent with the General Plan. The General Plan FEIR (as amended) concluded that land use conflicts, including impacts to adjacent residential development and existing businesses, can be substantially limited or precluded with implementation of applicable General Plan

policies and actions for planning and implementation as well as conformance with identified ordinances and adopted design guidelines. The proposed project would comply with all applicable City policies, actions and ordinances. Therefore, the proposed project would have a less than significant land use compatibility impact on surrounding land uses. **(Less Than Significant Impact)**

The project site is located adjacent to a major transportation corridor and a residential neighborhood. As proposed, the project would redevelop the site with residential and commercial land uses and a 1.4-acre open space promenade. The project would provide a transition between residential area and the commercial/retail centers and transit on Stevens Creek Boulevard, and the open space promenade would provide access for pedestrians and bicycles through the site. As a result, the proposed project would not physically divide an established community. **(Less Than Significant Impact)**

The project site is in a developed urban area but is subject to an adopted Habitat Conservation Plan. Please see Section 3.3, *Biological Resources*, for a complete discussion of the projects consistency with the HCP. **(Less Than Significant Impact)**

3.10.2.5 *Visual Intrusion (Privacy)*

Visual intrusion addresses the general concern that windows or balconies from taller buildings would provide visual access to neighboring yards and windows of private residences. There are existing off-site apartments south of the project site. The apartments are located approximately 80 feet from the southern project boundary. The proposed residential Building D on along Albany Drive would be set back a minimum of five feet from the property line, making the total distance between the residences approximately 95 feet.

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

Based on the proposed site plan, the office building and one of the residential buildings would be located on the northern portion of the site and would not have a direct interface with the nearby residential development. Building D and the parking structure would be directly across from existing residences and would be taller than the two-story residences.

Some of the existing apartments on Albany Drive are oriented to the roadway, but most are oriented internally to the property. Windows facing Albany Drive are obscured by existing street trees. The second floor apartments facing Albany Drive have balconies, which are mostly obscured by existing trees. No other private open space areas are located along the street frontage. While the proposed apartment building on Albany Drive would have windows facing the existing apartments, they would be an equivalent or greater distance than the setbacks between the apartments and the existing office building. As a result, the project would have a less than significant visual intrusion impact. **(Less Than Significant Impact)**

3.10.2.6 *Shade and Shadow Impacts*

The CEQA Guidelines do not provide a quantifiable threshold by which to assess the level of impact resulting from increased shading. As a result, it is the discretion of the Lead Agency to determine the impact threshold. Currently, for CEQA purposes, the City of San José only has an adopted threshold of significance for shade and shadow in the vicinity of certain public parks in the Downtown area. No thresholds for increased shade and shadow apply to other areas of the City, including private open space. Furthermore, the courts have determined that “California landowners do not have a right of access to air, light and view over adjoining property.”⁵³

As of March 2018, there were no existing solar collectors seen on the roofs of the adjacent properties that would be shaded by the project. The California Solar Rights Act (AB 3250, 1978) and the Solar Shade Act (AB 2321, 1978) protect existing solar panels and solar easements from trees and shrubs planted after installation of the solar panels, but provide no guarantee of solar access as it pertains to new building construction.

The proposed project would increase shading on the businesses to the east and west, and cast shadows on Stevens Creek Boulevard. Residences on the south side of Albany Drive would not be shaded because they are located south of the site. While the project would increase the amount of shade in the immediate project area, the proposed project would not shade any public or private open space. Consistent with City policy and the CEQA Guidelines, since there is no adopted quantifiable threshold and shading would only increase for a limited number of hours per day in the winter months, the project would not result in significant shade or shadow impact. **(Less Than Significant Impact)**

3.10.2.7 *Agricultural and Forestry Impacts*

The proposed project site is a developed site in an urban area, is not designated as farmland or forestry land, and has not been used as farmland for more than 50 years. Because the project would not conflict with existing agricultural zoning or a Williamson Act contract, convert or facilitate the conversion of prime farmland to non-agricultural uses, or result in the loss of forest lands, implementation of the proposed project would have no impact on farmland or forest lands. **(No Impact)**

3.10.2.8 *Population and Housing Impacts*

The City of San José population was estimated to be 1,046,079 in January 2016.⁵⁴ The City had approximately 332,574 housing units in 2017, resulting in an average of 3.21 persons per household. ABAG projects that there will be an approximate City population of 1,334,100 and 432,030 households by the year 2040.⁵⁵

In 2014, there were approximately 382,200 jobs in San José. The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a jobs/employee resident ratio of 1.1/1 or

⁵³ *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal. App. 4th 492

⁵⁴ California Department of Finance. “Table 2: E-5 City/County Population and Housing Estimates, 1/1/2017.” Accessed February 13, 2018. Available at: <http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/>

⁵⁵ Association of Bay Area Governments. *Projections 2013*. August 2013.

382,000 jobs by 2040.⁵⁶ To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

The proposed project would result in a net increase of approximately 510 jobs citywide and 582 new housing units. As noted above, San José currently has a higher number of employed residents than jobs. While housing is included in the project, the increase in jobs would incrementally decrease the overall jobs/housing imbalance within the City.

The project would develop land already planned for job growth in the General Plan. The site has not been used for residential purposes in the past; therefore, the proposed development would not displace existing housing or people. Implementation of the proposed project will have a less than significant impact on population and housing in San José. **(Less Than Significant Impact)**

3.10.3 Conclusion

The proposed project would be compatible with adjacent and nearby land uses and would not impact any designated agricultural or forest lands. The project would not displace existing housing and would not contribute to the jobs/housing imbalance in the City. With approval of the proposed rezoning, the proposed project would comply with relevant land use policies and regulations. **(Less Than Significant Impact)**

⁵⁶ City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. November 2016. Page 16.

3.11 NOISE AND VIBRATION

The following discussion is based on a noise assessment prepared by *Illingworth & Rodkin* in February 2018. The report can be found in Appendix E of this EIR.

3.11.1 Environmental Setting

3.11.1.1 *Regulatory Framework*

State Building Code (Residential)

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dBA DNL or CNEL⁵⁷ in any habitable room.

State Building Code (Commercial/Office)

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite Sound Transmission Class (STC) rating of at least 50 or a composite Outdoor-Indoor Transmission Class (OITC) rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA L_{dn} noise contour for a freeway or expressway, railroad, industrial source or fixed-guideway noise source, as determined by the local general plan noise element. The State also requires interior noise levels to be maintained at 50 dBA L_{eq(1-hr)} or less during hours of operation at a proposed office building.

State CEQA Guidelines

CEQA contains guidelines to evaluate the significance of effects resulting from a proposed project. These guidelines have been used in this EIR as thresholds for establishing potentially significant noise impacts and are listed under *Thresholds of Significance*.

CEQA does not define what noise level increase would be considered substantial. Typically, project-generated permanent noise level increases of 3 Ldn or greater would be considered significant where exterior noise levels would exceed the normally acceptable noise level standard (60 Ldn). Where noise levels would remain below the normally acceptable noise level standard with the project, permanent noise level increases of 5 Ldn or greater would be considered significant.

⁵⁷ DNL (or Ldn) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

Envision San José 2040 General Plan

The General Plan includes policies applicable to the proposed project. The City’s noise and land use compatibility guidelines are shown in Table 3.11-1, below. Relevant City policies and municipal code standards are also listed.

Table 3.11-1: Proposed Envision San José 2040 General Plan Land Use Compatibility Guidelines (GP Table EC-1)						
Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care ¹						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						
¹ Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required. Normally Acceptable:  Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. Conditionally Acceptable:  Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design. Unacceptable:  New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.						

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

- The City’s standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1). The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:
 - For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.3: Mitigate noise generation of new non-residential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Policy EC-1.6: Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV⁵⁸ will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code – Construction Standards

According to San José Municipal Code, construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

3.11.1.2 Background

Noise is typically defined as unwanted sound and is subjective due to varying tolerances. Acceptable levels of noise also vary from land use to land use. In any one location, the noise level will vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and Federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

Sound levels are usually measured in decibels (dB) with dB corresponding roughly to the threshold of hearing. Most of the sounds which we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. The method commonly used to quantify environmental sounds consists of evaluating all of the frequencies of a sound in accordance with a weighting that reflects the fact that human hearing is less sensitive at low frequencies and extreme high frequencies than in the frequency mid-range. This is called “A” weighting, and the dB level so measured is called the *A-weighted sound level* (dBA).

Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq} . The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01} , L_{10} , L_{50} , and L_{90} , are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period. Sound level meters can accurately measure environmental noise levels to within about plus or minus one dBA. Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have

⁵⁸ Peak Particle Velocity

been developed that incorporate artificial noise penalties added to quiet-time noise events. The Day/Night Average Sound Level, L_{dn} , is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.

The most widespread and continual sources of noise in San José are transportation and transportation-related facilities. Freeways, local arterials, the Norman Y. Mineta San José International Airport, railroads, and Light Rail Transit are all major contributors to noise in San José.

Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV) and another is the Root Mean Square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration. In this section, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. Table 3.11-2 shows the general reactions of people and the effects on building that continuous vibration levels produce. As with noise, the effects of vibration on individuals is subjective due to varying tolerances.

Table 3.11-2: Effects of Vibration		
PPV (in/sec)	Human Reaction	Effect on Buildings
0.01	Barely perceptible	No effect
0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of vibration to which ruins and ancient monuments should be subjected
0.1	Strongly perceptible	Virtually no risk of damage to normal buildings
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings.
0.5	Severe – vibration considered unpleasant	Threshold at which there is a risk of damage to newer residential structures.

Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, etc. The rattling sound can give rise to exaggerated vibration complaints, even though there is little risk of actual structural damage. In high noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of the physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels such as people in an urban environment may tolerate higher vibration levels.

Structural damage can be classified as cosmetic, such as minor cracking of building elements, or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structure damage to a building. Construction-induced vibration that can be detrimental to a building is very rare and has only been observed in instances where the structure is in a high state of disrepair and the construction activities occur immediately adjacent to the structure.

3.11.1.3 Existing Conditions

The project site is located on the south side of Stevens Creek Boulevard to the east and west of Lopina Way. Noise levels in the project area are primarily the result of vehicular noise on the surrounding roadways. The project site is surrounded by commercial and residential development, and is not exposed to noise from aircraft overflights or loud intermittent noise sources such as light or heavy rail.

To quantify the existing noise environmental on the project site and at the nearest off-site residences, a noise monitoring survey was completed at the site over three days in May 2017. The survey consisted of four long-term measurement (LT-1 through LT-4) and five short-term measurements (ST-1 through ST-5). Tables 3.11-3 and 3.11-4 gives a summary of the acoustical locations and measurements. Average noise levels around the site range from 67 to 72 dBA DNL. The noise monitoring locations are shown on Figure 3.11-1 below.

Table 3.11-3: Existing Long-Term Noise Measurements (dBA DNL)				
Measurement	Location	Daytime Level	Nighttime Level	Average Noise Level
LT-1	Generally midpoint of the eastern site boundary.	61-66	57-62	67
LT-2	Generally midpoint of the western site boundary.	59-71	50-65	69
LT-3	Behind 4340 Stevens Creek Blvd., approximately 35 feet north of the Albany Drive centerline	61-73	53-64	68
LT-4	In front of 4360 Stevens Creek Blvd., approximately 70 feet south of the Stevens Creek Blvd. centerline.	67-76	56-65	72



Figure 3.11-1: Noise Monitoring Locations

Table 3.11-4: Existing Short-Term Noise Measurements (dBA)

Measurement	Location	Lmax	Leq
ST-1	Park Kiely Apartments, Building M	64	57
ST-2	In front of 309 Auburn Way	68	60
ST-3	Park Kiely Apartments, Pool Area	67	58
ST-4	Along west boundary of the project site, near LT-2	82	75
ST-5	Along east boundary of the project site, near LT-1	64	57

Sensitive Receptors

The nearest noise sensitive receptors to the project site would be the residences south (approximately 80 feet) of the project site, on the south side of Albany Way.

3.11.2 Noise and Vibration Impacts

3.11.2.1 *Thresholds of Significance*

For the purposes of this EIR, a noise and vibration impact is considered significant if the project would result in:

- Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or local general plan or noise ordinance, or applicable standards of other agencies;
- Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels;
- A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project;
- A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project;
- 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; or
- 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.

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Per City of San José Policy EC-1.2, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

City of San José Standards

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

Construction Noise

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

Traffic-Generated Noise

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

Construction Vibration

The City of San José has concluded that a significant impact would be identified if the construction of the project would expose persons to excessive vibration levels. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structure sounds but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

3.11.2.2 *Consistency with Plans and Policies*

The project would be required to implement identified noise control measures during all phases of construction. As a result, the project would be consistent with Policy EC-1.7. With implementation of the identified mitigation measures, the project would be consistent with vibration Policy EC-2.3 and operational noise Policies EC-1.1, EC-1.2, EC-1.3, and EC-1.6.

3.11.2.3 *Noise Impacts from the Project*

Mechanical Equipment

The proposed buildings would have rooftop mechanical equipment including HVAC systems and elevator operating systems. The mechanical equipment on-site would be a minimum of 100 feet from the nearest residences. General Plan Policy EC-1.6 requires existing and new industrial and commercial development to reduce the effects of operational noise on adjacent residential uses through compliance with noise standards⁵⁹ in the City's Municipal Code (Sections 20.40.600 and 20.50.300).

Typical air conditioning units and heat pumps for multi-level residential buildings range from about 70 to 75 dBA Leq at a distance of three feet. Rooftop mechanical equipment noise levels for commercial office buildings typically range from 80 to 85 dBA Leq at a distance of three feet. At a distance of 100 feet, mechanical equipment noise from the project site would range from 40 to 45 dBA Leq. This would be below the City's Code requirement.

As a condition of project approval, conformance with Policy EC-1.6 and the Municipal Code must be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement prior to issuance of occupancy permits. **(Less Than Significant Impact)**

Parking Garage Noise

The project proposes one free-standing parking structure (Building B), and parking structures within each of the residential buildings (Buildings C and D). The City has noise thresholds in the Municipal Code which regulate parking garage noise.

⁵⁹ Per the Municipal Code, the office buildings cannot generate noise greater than 55 dBA at the shared property line with the adjacent residential development.

Based on the proposed site plan, the residential buildings would have two levels of above-grade parking and one level of below-grade parking. Building B would be a six-story, above-grade parking garage.

The surrounding land uses are currently exposed to parking lot noise from the site and the same types of noise would continue with the proposed project. Existing ambient average noise levels along Albany Drive range from 61 to 67 dBA Leq, which exceeds San José's 55 dBA Leq residential threshold. The existing ambient average noise levels at the property to the west range from 65 to 70 dBA Leq and at the property to the east range from 61 to 66 dBA Leq, which exceeds San José's 60 dBA Leq commercial threshold. The existing ambient average noise levels along Stevens Creek Boulevard range from 67 to 76 dBA Leq, which exceeds San Jose's 65 dBA Leq daytime commercial threshold. The parking structures would be shielded by solid walls, and the upper parking levels would be at higher elevations than the existing parking lot. These factors would increase the distance between parking structure noise sources as well as shield receptors from the parking lot noise sources. For these reasons, parking structure noise levels would be less than the noise levels produced by the existing parking lots and would not exceed the City's noise thresholds for residential and commercial uses. **(Less Than Significant Impact)**

Project-Generated Traffic Noise

Based upon the traffic study (see Section 3.13, Transportation/Traffic), the proposed development would generate approximately 5,563 net new daily trips. A noise increase is considered substantial by the City of San Jose if it would increase the ambient noise level by three dB or more in sensitive noise areas. Typically, a three dB traffic noise increase requires a doubling of traffic on local roadways.

Project traffic would not be of sufficient volume to double the amount of traffic in the project area (see Section 3.13, Transportation/Traffic). The project would result in an increase in the ambient noise level of one dBA DNL or less at the nearest sensitive noise receptors. Future project traffic would, therefore, result in a less than significant noise impact. Development of the project site, as proposed, would also help to shield the residential neighborhood to the south and attenuate some traffic noise from Stevens Creek Boulevard. **(Less Than Significant Impact)**

3.11.2.4 Construction Impacts

Construction Noise

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 decibels 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-generated noise levels drop off at a rate of about six decibels per doubling of distance between the source and receptor. Table 4.5-5 shows the calculated construction noise, based on equipment specified for the project, at the nearest receptors.

Project construction is estimated to take 25 months. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. Once construction moves indoors, minimal noise would be generated at off-site locations.

The existing daytime ambient noise levels at the nearest residences is equivalent to the noise level at measurement location LT-3 (68 dBA DNL). Based on the existing noise levels, the average hourly noise level during construction would range from 61 to 73 dBA Leq. At the busiest construction periods, the average noise levels at the nearby residences would range from 64 to 80 dBA Leq. At the adjacent commercial land uses, average hourly construction noise would range from 59 to 71 dBA Leq with a maximum noise level of 80 dBA Leq. For both the residential and commercial receptors, construction of the proposed project would exceed the City's standard noise thresholds and would, at times, increase ambient noise levels from at least five dBA Leq.

The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible at the nearby residential buildings and could pose a significant impact. The General Plan FEIR (as amended) concluded that short-term construction noise would be mitigated by identified General Plan policies.

Consistent with the Municipal Code and in accordance with the General Plan FEIR (as amended), particularly Policy EC-1.7, the proposed project will be required by conditions of project approval to implement the following measures during all phases of construction on the project site:

Standard Permit Conditions

- Demolition and construction activities on- or off-site, within 500 feet of sensitive receptors, such as residential development, shall be restricted to the hours of 7 AM to 7 PM Monday through Friday, non-holidays only.
- Staging areas and construction material areas shall be located as far away as possible from adjacent land uses.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained. All equipment shall be checked by a certified mechanic prior to the start of each phase of construction and determined to be running in proper condition.
- All unnecessary idling of internal combustion engines is prohibited. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes.
- Construct solid plywood fences around the construction site where it is adjacent to operational businesses, residences, or noise-sensitive land uses.
- A temporary noise control blanket barrier would be erected, if necessary, along building facades facing the construction site. This would be at the discretion of the Director of Planning, Building and Code Enforcement should conflicts arise during construction.
- All stationary, noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and businesses.
- If pile driving is necessary, pre-drill founding pile holes to minimize the number of impacts required to seat the piles.

- Residential neighborhoods proximately located to the project site shall be notified in writing by the developer of the construction schedule at least seven days prior to the start of construction.
- A noise disturbance coordinator shall be designated who is responsible for responding to complaints about construction noise. The telephone number of the disturbance coordinator shall be posted in a conspicuous place at the construction site and shall also be included in the notice sent to neighbors and the Director of Planning, Building and Code Enforcement regarding the schedule.

All phases of construction of the proposed project would be required to comply with all applicable City policies and the Municipal Code. With implementation of these measures, as well as the General Plan and Municipal Code limits on allowable construction hours, and considering that construction is temporary, the impact would be less than significant. **(Less Than Significant Impact)**

Construction Vibration

Construction activities would include demolition of existing pavement and buildings, site preparation work, excavation of below grade parking, foundation work, and construction of the new buildings and underground parking. General Plan policy EC-2.3 states the following regarding vibration from demolition and construction:

“**EC-2.3:** Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.”

Construction activities such as drilling, use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may generate substantial vibration in the immediate site vicinity. No pile driving is proposed.

Existing residential and commercial land uses are located approximately 25 feet to the west, 80 feet to the south, 60 feet to the west, and 180 feet to the north. There are no historic structures on or near the project site. At the nearest structures to the south, west, and north, vibration levels would be at or below 0.06 in/sec PPV and would not impact off-site structures.

The automotive dealership to the east of the site is approximately 25 from the project site and would be exposed to vibration levels of up to 0.21 in/sec PPV which exceed the City’s threshold of 0.20 in/sec PPV.

Impact NOI-1: Construction of the proposed project could expose the adjacent automotive dealership to vibration levels in excess of City standards in General Plan Policy EC-2.3. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures are proposed as part of the project to reduce construction vibration impacts to a less than significant level.

- MM NOI-1.1:** A Construction Vibration Monitoring Plan shall be implemented to document conditions prior to, during, and after vibration generating construction activities. The plan shall be submitted to the Supervising Environmental Planner of City of San José Department of Planning, Building, and Code Enforcement for review and approval. The Plan shall address vibration impacts to adjacent structures. The plan shall include, but is not limited to:
- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using equipment that has been known to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.)
 - Avoidance methodology to avoid and/or reduce impact to the adjacent property.

- MM NOI-1.2:** The project applicant shall include the following measures as part of the approved construction plans prior to the issuance of any demolition or grading permits:
- Construction crews shall avoid dropping heavy objects or equipment within 30 feet of any adjacent structure.
 - The project applicant shall ensure that all contractors follow the prescribed vibration mitigation measures.
 - The project applicant shall designate a specific person responsible for registering and investigating claims of excessive vibration. The contact information shall be clearly posted on the construction site so as to be seen from all street frontages.
 - If cosmetic or structure damage to the adjacent buildings is caused directly or indirectly by project construction, the project applicant shall make the necessary repairs and provide adequate documentation of the repairs to the Director of Planning, Building and Code Enforcement prior to issuance of any occupancy permits.

With implementation of the proposed mitigation, the project would have a less than significant vibration impact on the adjacent automotive dealership. **(Less Than Significant Impact With Mitigation)**

3.11.2.5 *Existing Noise Conditions Affecting the Project*

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment

may have on a project; nevertheless the City has policies that address existing conditions (e.g. noise) affecting a proposed project, which are addressed below.

The policies of the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Based on the General Plan noise and land use compatibility guidelines, commercial/office development is allowed in areas with ambient noise levels up to 70 dBA DNL and is conditionally allowed in areas with noise levels up to 80 dBA DNL. Residential development is allowed in areas with noise levels up to 60 dBA DNL and is conditionally acceptable in areas with noise levels up to 75 dBA DNL.

Residential Land Uses

Exterior Noise

The residential land uses would be located on the west portion of the project site, along Stevens Creek Boulevard and Albany Drive. Outdoor use areas for the proposed project include a 1.4-acre publically assessable pedestrian promenade, and private pool decks and terraces on the third floors of Buildings C and D.

The third-floor common outdoor use area of Building C would be almost completely surrounded by the proposed building and shielded from traffic noise by both Buildings C and D, resulting in a future noise environment at or below 60 dBA DNL.

The third-floor common outdoor use areas of Building D would be located in the eastern and western portions of the building and partially surrounded by the proposed building. Due to the shielding of these outdoor areas, the future noise environment would be at or below 60 dBA DNL.

The outdoor use areas associated with the residential buildings of the proposed project would meet the City's exterior noise level requirements and be consistent with Policy EC-1.1.

The pedestrian promenade is not exclusive to occupants of the project and is, therefore, considered public open space. Therefore, for the purposes of this analysis, the promenade was analyzed based on the noise thresholds for neighborhood park.

The northernmost portion of the promenade would be exposed to noise levels above 65 dBA DNL, which is within the conditionally acceptable range. Noise attenuation measures, such as noise barriers, would be unreasonable because they would block access from Stevens Creek Boulevard. The conditionally acceptable noise levels at the north end of the promenade would be acceptable because the noise levels in the remaining portion of the promenade would be below 65 dBA DNL and considered normally acceptable for the proposed use. Therefore, the promenade would meet the City's exterior noise level requirements and be consistent with Policy EC-1.1.

Interior Noise

The future noise level at the residential building façade (floors three through seven) facing Stevens Creek Boulevard is estimated to be 75 dBA DNL. The future noise level at the residential building façade (floors three through seven) facing Albany Drive is estimated to be 71 dBA DNL. The future

noise level at the residential building façade (floors three through seven) facing the mechanical noise from the auto dealership to the west is projected to be up to 71 dBA DNL.

Standard residential construction provides approximately 15 dBA of exterior to interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Where noise levels exceed 65 dBA DNL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant's discretion.

Assuming windows to be partially open for ventilation, the interior noise levels for the proposed project would range from 51 to 55 dBA DNL. This would exceed the 45 dBA DNL threshold for interior noise.

As a condition of approval, the following standard permit condition will be included in the project.

Standard Permit Condition

- A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase pursuant to requirements set forth in the State Building Code. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower.

Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, mechanical ventilation, etc. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City for review and approval, along with the building plans and approved design, prior to issuance of a building permit.

Compliance with the identified conditions of approval would ensure that the project is consistent with Policy EC-1.1.

Aircraft Noise

Mineta San José International Airport is located approximately 3.67 miles northeast of the project site. While aircraft-related noise may occasionally be audible at the project site, noise from aircraft would not substantially increase ambient noise levels. The project site is outside the 2017 and 2027 60 dB CNEL aircraft noise contours shown in the Norman Y. Mineta San José International Airport Master Plan Update Project report (February 2010). Exterior and interior noise levels resulting from aircraft would be compatible with the proposed project and the project would be consistent with Policy EC-1.1.

3.11.3 Conclusion

Operation of the proposed project will have a less than significant impact on nearby sensitive receptors. **(Less Than Significant Impact)**

With compliance with City code requirements and implementation of the identified noise control measures, construction noise impacts would be less than significant. **(Less Than Significant Impact)**

With implementation of the proposed mitigation, construction vibration impacts would be reduced to a less than significant level. **(Less Than Significant Impact with Mitigation)**

3.12 PUBLIC SERVICES/RECREATION

3.12.1 Environmental Setting

Unlike utility services, public facility services are provided to the community as a whole, usually from a central location or from a defined set of nodes. The resource base for delivery of the services, including the physical service delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery agency can be a city, county, service or other special district. Typically, new development will create an incremental increase in the demand for these services; the amount of demand will vary widely, depending on both the nature of the development (residential vs. commercial, for instance) and the type of services, as well as on the specific characteristics of the development (such as senior housing vs. multi- or single-family housing).

The impact of a particular project on public facilities and services is generally a fiscal impact. By increasing the demand for a type of service, a project could cause an eventual increase in the cost of providing the service (e.g., more personnel hours to patrol an area, additional fire equipment needed to service a tall building, etc.). That is a fiscal impact, however, not an environmental one.

CEQA does not require an analysis of fiscal impacts. CEQA analysis is required if the increased demand triggers the need for a new facility (such as a school or fire station), since the new facility would have a physical impact on the environment.

For the purposes of the EIR, a public facilities and services impact is considered significant if the project would result in substantial adverse physical impacts associated with the provision or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, or other public facilities.

3.12.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

The following General Plan policies related to the provision of public and services and recreational facilities are applicable to the proposed project:

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide /regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-1.6: Where appropriate and feasible, develop parks and recreational facilities that are flexible and can adapt to the changing needs of their surrounding community.

Policy PR-1.7: Design vibrant urban public spaces and parklands that function as community gathering and local focal points, providing opportunities for activities such as community events, festivals, and/or farmers markets as well as opportunities for passive and, where possible, active recreation.

Policy PR-1.9: As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as a part of new development projects; privately or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a three-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

Policy ES-3.1: Provide rapid and timely Level of Service response time to all emergencies:

- a. For police protection, achieve a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.
- b. For fire protection, achieve a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents.
- c. Enhance service delivery through the adoption and effective use of innovative, emerging techniques, technologies and operating models.
- d. Measure service delivery to identify the degree to which services are meeting the needs of San José's community.

- e. Ensure that development of police and fire service facilities and delivery of services keeps pace with development and growth in the city.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically visible and accessible spaces.

Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Stevens Creek Boulevard Urban Village Plan

The following Stevens Creek Boulevard Urban Village Plan policies are applicable to the proposed project.

Policy LU-5.2: All new development shall incorporate some amount of publicly accessible open space, such as plazas and pocket parks, or small areas for seating, into their development that is privately owned and maintained.

Policy P-1.2: As new development occurs, space on each site will be dedicated to some form of publicly accessible open space. These spaces should be located so as to easily and logically connect with other open spaces in the surrounding area to work towards creating a connected web of open space throughout the Urban Village.

Policy P-1.6: Ensure that all new parks and plazas are highly visible from a public right-of-way.

Policy P-2.2: Privately-owned, publicly accessible plazas should generally be a minimum of 2000 square feet in area ensure that enough amenities can be included in them.

Parkland Dedication/Park Impact Ordinance

The State Quimby Act (California Government Code §66477) authorizes cities and counties to adopt ordinances requiring new development to dedicate land or pay fees or provide a combination of both for park improvements.

As a result, the City of San José enacted the Parkland Dedication Ordinance (PDO)[1] in 1988 to help meet the demand for new neighborhood and community parkland generated by the development of new residential subdivisions. In 1992, the City Council adopted the Park Impact Ordinance (PIO)[2], which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. These ordinances are consistent with provisions of the California Quimby Act (GC § 66477), Mitigation Fee Act (GC § 66000), Subdivision Map Act (GC § 66410), and associated federal statutes.

Consistent with these ordinances, housing developers are required to dedicate and improve land, improve existing recreational facilities, and/or pay a parkland fee in lieu of land dedication. Pursuant to these ordinances a residential project's parkland requirement under the PDO and PIO is equivalent

in value or property to providing three acres of land for every 1,000 new residents added by the housing development.

3.12.1.2 Existing Conditions

Police Department

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately 4.3 miles northeast of the project site.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

Fire Department

Fire protection services for the project are provided by the San José Fire Department (SJFD). Fire stations are located throughout the City to provide adequate response times to calls for service. SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. Emergency response is provided by 30 engine companies, nine truck companies, one urban search and rescue company, one hazardous incident team company, and numerous specialty teams and vehicles.

The nearest fire station to the project site is Station No. 14, located at 1201 San Tomas Aquino Road, approximately 1.3 miles south of the site. Based on the most recent data available from the SJFD, the average travel time for medical calls from Station 14 in 2016 was 4:50 minutes and in 2017 was 6:02 minutes. For fire and other calls, the average response time in 2016 was 5:33 and in 2017 was 5:31. There was little variation in travel times from month to month with the exception of November 2017, which saw an increase in medical response times compared to historic trends.⁶⁰ The Fire Department has the ability to preempt traffic signals to speed response times.

The General Plan identifies a service goal of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

Schools

The project site is located within the Fremont Union High School District (FUHSD) and Cupertino Union School District (CUSD). Students generated by the project would attend Dwight D. Eisenhower Elementary School (K-5th grade), Warren E. Hyde Middle School (6th-8th grade), and Cupertino High School.

Parks

The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José owns and

⁶⁰ City of San José Fire Department. Fire Station Response Metrics. City of San Jose, 2018. Accessed March 5, 2018. <http://www.sanJoseca.gov/DocumentCenter/View/36886>.

maintains approximately 3,518 acres of parkland, including neighborhood parks, community parks, regional parks, golf courses, and undeveloped open space. The City also has 25 community centers, 12 senior centers, and 14 youth centers, though some are temporarily closed due to budget constraints. Other recreational facilities include six public skate parks and over 54 miles of trails.

The General Plan's goal is to provide 3.5 acres of neighborhood/community serving parkland per 1,000 population, 7.5 acres of citywide/regional park and open space lands per 1,000 population, and 500 square feet of community center facilities per 1,000 population.

The nearest park to the project site is John Mise Park, located approximately 0.54 miles southwest of the project site, on the south side of Highway 280. Nearby community centers include the Cypress Community and Senior Center (located 1.2 miles east) and Starbird Youth Center (located 1.2 miles southeast).

3.12.1.3 *Libraries*

The Dr. Martin Luther King Jr. Library opened in downtown in 2003. There are 22 additional branch libraries located throughout San José. The nearest branch library to the project site is the West Valley Library located at 1243 San Tomas Aquino Road, approximately 1.3 miles south of the site.

3.12.2 Public Services Impacts

3.12.2.1 *Thresholds of Significance*

For the purposes of this EIR, a public services impact is considered significant if the impacts are associated with:

- The provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:
 - Fire protection
 - Police protection
 - Schools
 - Parks
 - Other public facilities.
- An increase in the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- Include recreational facilities or require the construction of expansion of recreational facilities which might have an adverse physical effect on the environment.

3.12.2.2 *Consistency with Plans and Policies*

The proposed Building C would include fitness space on the first floor and a pool deck and amenity space on the second floor. On-site amenities in Building D include a pool deck and amenity space on the third floor. In addition, the project proposes to replace Lopina Way with a 1.4-acre landscaped promenade. The project would be required to comply with the City's Park Dedication Ordinance and

Park Impact Ordinance. The project would also be built to current building code and safety standards. Therefore, the project is consistent with General Plan Policies CD-5.5, PR-1.1, PR-1.2, PR-1.3, PR-1.6, PR-1.7, PR-1.9, PR-1.12, PR-2.4, PR-2.5, PR-2.6, ES-3.1, ES-3.9, and ES-3.11. The project would also be consistent with Urban Village policies LU-5.2, P-1.2, P-1.6, and P-2.2.

3.12.2.3 *Police and Fire Protection Services*

The General Plan FEIR (as amended) concluded that, with the build out of the General Plan, additional fire staff and equipment may be required to adequately serve a larger population but no new fire stations would be required other than those already planned. In regards to police services, the General Plan FEIR (as amended) concluded that the build out of the General Plan could require new police facilities, which would require supplemental environmental review but are not anticipated to result in significant, adverse environmental impacts.

The project proposes to redevelop the project site with residential, commercial, and office uses, consistent with the General Plan. Implementation of the proposed project would intensify the use of the site and generate additional residents and workers in the area, which would incrementally increase the demand for fire and police protection services compared to existing conditions. The project site is currently served by both the SJFD and SJPD and the amount of proposed development represents a small fraction of the total growth identified in the General Plan. The project, by itself, would not preclude the SJFD and SJPD from meeting their service goals and would not require the construction of new or expanded fire or police facilities. In addition, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. For these reasons, the proposed project would not have a significant impact on fire and police protection services. **(Less Than Significant Impact)**

3.12.2.4 *Schools*

The most recent capacity and enrollment data for the schools that would serve the project site are listed in Table 3.12-1 below.

School	Capacity	Enrollment
Dwight D. Eisenhower Elementary School	754 ⁶¹	660 ⁶²
Warren E. Hyde Middle School	1,003 ⁶³	983 ⁶⁴
Cupertino High School	2,268 ⁶⁵	2,273 ⁶⁶

⁶¹ Website: <https://elementaryschools.org/directory/ca/cities/santa-clara/dwight-d-eisenhower-elementary/61029001132/> Accessed August 9, 2018. Based on available enrollment data.

⁶² Dwight D. Eisenhower Elementary School Accountability Report Card. Available at: http://www.axiomadvisors.net/livesarc/SARCIndexPDFs/43694196046809_16-17_1.pdf Accessed August 9, 2018

⁶³ Website: <https://elementaryschools.org/directory/ca/cities/cupertino/warren-e-hyde-middle-school/61029001136/> Accessed August 9, 2018. Based on available enrollment data.

⁶⁴ Hyde Middle School Accountability Report Card. Available at: http://www.axiomadvisors.net/livesarc/SARCIndexPDFs/43694196047096_16-17_1.pdf Accessed August 9, 2018

⁶⁵ Schoolhouse Services. Enrollment and Fiscal Impact Analysis for: The Hills At Vallico. Accessed: August 9, 2018. Available at: <http://revitalizevallico.com/live/wp-content/uploads/2016/05/Enrollment-and-Fiscal-Impact-Analysis.pdf>.

⁶⁶ Vallico Special Area Specific Plan Draft Environmental Impact Report. May 2018.

Build out of the City's General Plan is estimated to generate 580 new students in the FUHSD (which includes Cupertino High School) and 375 new students in the CUSD (which includes Dwight D. Eisenhower Elementary School and Warren E. Hyde Middle School). Based on an average student generation rate 0.33 students per unit in the CUSD and 0.09 students per units in the FUHSD, the proposed project is estimated to generate approximately 245 new students.^{67,68} The proposed project is part of planned growth in the City, and would not increase the numbers of students in the FUHSD and CUSD beyond what has been anticipated and analyzed within the General Plan FEIR (as amended).

State law (Government Code Section 65996) specifies that an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a Building Permit. The affected school districts are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with state law. The school impact fees and the school districts' methods of implementing measures specified by Government Code Section 65996 would partially offset project-related increases in student enrollment.

While the proposed project would increase the number of school children attending the public schools in the area, the increase is consistent with the increase identified in the General Plan FEIR (as amended), and would comply with state law regarding payment of school impact fees. For this reason, the project would not result in a significant impact to local schools. **(Less Than Significant Impact)**

3.12.2.5 *Parks*

Implementation of the project would increase the daily employee population in the City. Although future employees might use City parks or trails, the employees are unlikely to place a major physical burden on existing parks. Implementation of the project would not have a substantial adverse physical impact on existing parks and other public recreational facilities as a result of new on-site employees. The proposed project would also increase the resident population in San Jose by approximately 1,665 new residents⁶⁹, which would increase the demand for park and recreational facilities.

Development and redevelopment allowed under the City's General Plan would increase the City's residential population to 1,445,000 by 2040. The increase in residential population resulting from the General Plan build out and the proposed project would increase the demand for park and recreational facilities. The residential portion of the project would be required to comply with the City's Parkland Dedication Ordinance (PDO - SJMC 14.25 PIO) or the Park Impact Ordinance (PIO - SJMC 19.38 - PDO). An executed Parkland Agreement that outlines how a project would comply with the PIO/PDO is required prior to the issuance of a Parcel Map or a Final Subdivision Map. Payment of park impact fees is required prior to the issuance of a new construction Building Permit.

⁶⁷ Schoolhouse Services. Enrollment and Fiscal Impact Analysis for: The Hills At Vallco. Accessed: February 8, 2017. Available at: <http://revitalizevallco.com/live/wp-content/uploads/2016/05/Enrollment-and-Fiscal-Impact-Analysis.pdf>. The average student generation rate for apartments in the CUSD is 0.33 and the average student generation rate for apartments in the FUHSD is 0.09.

⁶⁸ Based on a residential unit count of 582 units. Commercial buildings do not generate students.

⁶⁹ Based on an average of 2.86 persons per household.

The project includes a 1.4-acre pedestrian promenade for the public and additional on-site recreational amenities for the residences. District 1 is currently underserved with regard to parkland and the project would provide public open space within walking distance of existing residential neighborhoods.

The General Plan FEIR (as amended) concluded that the City's PDO would be satisfied through several ways including: dedication of land; payment of in-lieu fees; credit for qualifying recreational private recreational amenities (based upon project design); and/or credit for improvement costs to parkland or recreational facilities. Because the proposed project would comply with PDO requirements, the project would not result in substantial adverse physical impacts to recreational facilities in San José. **(Less Than Significant Impact)**

3.12.2.6 ***Libraries***

The General Plan FEIR (as amended) concluded that the existing and planned facilities would provide approximately 0.68 square feet of library space for the anticipated population under the City's General Plan by 2035, which is above the City's General Plan service goal of 0.59 square feet of library space per capita (General Plan Policy ES-2.2).

The proposed project would generate approximately 1,665 new residents, which would incrementally increase the demand for library facilities. The population growth resulting from the project was analyzed as part of the City's General Plan; therefore, the project would not require new or expanded library facilities beyond what is already planned in the City to meet service goals. **(Less Than Significant Impact)**

3.12.3 **Conclusion**

Implementation of the project would result in an increase in the employee and residential population in the City, which would increase the demand for police and fire protection services. The proposed project is consistent with the planned growth in the General Plan and would not result in the need to construct new police or fire facilities. The proposed development is consistent with the planned growth in the General Plan and, by itself, will not result in the need to construct new schools, libraries, or recreational facilities. **(Less Than Significant Impact)**

3.13 TRANSPORTATION/TRAFFIC

The following discussion is based upon a Transportation Impact Analysis prepared by *Hexagon Transportation Consultants* in June 2018. The report can be found in Appendix F of this EIR.

3.13.1 Environmental Setting

3.13.1.1 *Regulatory Framework*

Regional Transportation Planning

The Metropolitan Transportation Commission (MTC) is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities in the region. MTC and ABAG adopted *Plan Bay Area 2040* in July 2017, which includes the region's Sustainable Communities Strategy (integrating transportation, land use, and housing to meet GHG reduction targets set by CARB) and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, state, regional and local sources over the next 24 years).

Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the Congestion Management Program (CMP), a program aimed at reducing regional traffic congestion. The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element. The VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

City of San José Level of Service Standards and City Council Policy 5-3

As established in City Council Policy 5-3 "Transportation Impact Policy" (2005), the City of San José uses the same LOS method as the CMP, although the City's standard is LOS D rather than LOS E. According to this policy and GP Policy TR-5.3, an intersection impact would be satisfactorily mitigated if the implementation of measures would restore level of service to existing conditions or better, unless the mitigation measures would have an unacceptable impact on the neighborhood or on other transportation facilities (such as pedestrian, bicycle, and transit facilities). The City's Transportation Impact Policy (also referred to as the Level of Service Policy) protects pedestrian and bicycle facilities from undue encroachment by automobiles.

Envision San José 2040 General Plan

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

Policy TR-1.1: Accommodate and encourage use of non-automobile transportation modes to achieve San José’s mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas.

Policy TR-8.4: Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

Policy TR-8.9: Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.

- a. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
- b. Strongly discourage drive-up services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the

planned uses of the area.

- c. Provide pedestrian connections as outlined in the Urban Community Design Connections Goal and Policies.
- d. Locate retail and other active uses at the street level.
- e. Create easily identifiable and accessible building entrances located on street frontages or paseos.
- f. Accommodate the physical needs of elderly populations and persons with disabilities.
- g. Integrate existing or proposed transit stops into project designs.

Policy CD-3.4: Encourage pedestrian cross-access connections between adjacent properties and require pedestrian and bicycle connections to streets and other public spaces, with particular attention and priority given to providing convenient access to transit facilities. Provide pedestrian and vehicular connections with cross-access easements within and between new and existing developments to encourage walking and minimize interruptions by parking areas and curb cuts.

Policy CD-3.6: Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

Stevens Creek Boulevard Urban Village Plan

The following Urban Village Plan policies are applicable to the proposed project.

Policy CS-2.2: Develop safe and direct pedestrian and bicycle connections (sidewalks or pathways) between transit stops and local destinations.

Policy CS-3.5: Install high-quality bicycle racks near building entrances to help accommodate and encourage bicyclists to frequent businesses and services to improve the economic vitality in the area.

Policy CS-4.2: Ensure all future development projects provide a 20-foot wide minimum sidewalk along Stevens Creek Boulevard, Saratoga Avenue, and Kiely Boulevard. All other streets should have a minimum 12-foot sidewalk width and ideally achieve a sidewalk width of 15 feet. Allow exceptions only in the case of economic hardship on shallow lots or constrained sites.

Policy UD-5.2: Locate vehicle parking so that it is not attached to a single development or use, but can be shared.

Policy UD-5.3: Limit the amount of vehicle parking to incentivize sharing and minimize the amount of land dedicated exclusively to parking.

3.13.1.2 *Existing Conditions*

Existing Roadway Network

This section summarizes the existing conditions for the major transportation facilities in the vicinity of the site, including the roadway network, transit service, and bicycle and pedestrian facilities. Also included are the existing levels of service of the key intersections and freeway segments in the study area.

Regional Access

Regional access to the project site is provided via Interstate 280 (I-280).

I-280 is an eight-lane, generally north-south freeway that extends from I-80 in San Francisco to Highway 101 (US 101) in San José. East of US 101, I-280 transitions into I-680 to Oakland. I-280 provides access to the project site via an interchange at Saratoga Avenue.

Local Access

Local access to the project site is provided via Saratoga Avenue, Stevens Creek Boulevard, Kiely Boulevard, and Northlake Drive. These roadways are described below.

Saratoga Avenue is a north-south arterial that extends from Scott Boulevard in San José to Saratoga Sunnyvale Road in Los Gatos. In the vicinity of the project, Saratoga Avenue has four lanes north of Stevens Creek Boulevard and six lanes south of Stevens Creek Boulevard. Access to the project site is provided via two existing median breaks with designation left turn pockets.

Stevens Creek Boulevard is a divided six-lane, east-west arterial that extends from Cupertino east to I-880. At I-880 it transitions to San Carlos Street to downtown San José. Site access is provided directly from Stevens Creek Boulevard as well as via Northlake Drive and Saratoga Avenue.

Kiely Boulevard is a north-south arterial that extends from El Camino Real in Santa Clara to Boynton Avenue in San José. Kiely Boulevard has four lanes west of Saratoga Avenue. Along the project boundary, Kiely Boulevard is a two-lane roadway with direct access to the project site.

Albany Drive is an east-west, two-lane local roadway that extends from Stevens Creek Boulevard to Kiely Boulevard.

Lopina Way is a north-south, two-lane local roadway that extends from Stevens Creek Boulevard to Albany Drive. Lopina Way runs through the project site and serves commercial uses on the street. In addition, Lopina Way connects the residential uses south of the site on Albany Street to Stevens Creek Boulevard. The street would be relocated to the project's eastern boundary.

Existing Pedestrian and Bicycle Facilities

Bicycle Facilities

Bicycle facilities are comprised of paths (Class I), lanes (Class II), and routes (Class III). Bicycle paths are paved trails that are separate from roadways. Bicycle lanes are lanes on roadways designed for bicycle use by striping, pavement legends, and signs. Bicycle routes are roadways designated for bicycle use by signs only. Currently, there are no designated bike lanes or bike routes on streets in the immediate vicinity of the project site.

Pedestrian Facilities

A complete network of sidewalks is provided on the streets in the vicinity of the project site, including Stevens Creek Boulevard, Kiely Boulevard, and Albany Drive. The signalized intersections near the project site all have crosswalks. Overall, the existing network of sidewalks and crosswalks have good connectivity and provides pedestrians with safe routes to the project site and transit stops.

Existing Transit Service

Existing transit service in the project area is provided by the VTA. Three local bus routes and one limited stop route serve the project area, as described below. VTA bus services are described in Table 3.13-1 below. All transit services are shown on Figure 3.13-1.

Route	Route Description	Daily Headway
23	De Anza College to Alum Rock Transit Center via Stevens Creek Boulevard	12 min
57	West Valley College to Great America via Kiely Boulevard	30 min
58	West Valley College to Alviso via Kiely Boulevard	30 min
323	De Anza College to Downtown San José via Stevens Creek Boulevard	15 min

The nearest bus stop locations are located on Stevens Creek Boulevard (in front of the site) and Kiely Boulevard.

3.13.1.3 Methodology

The impacts of the proposed development were evaluated following the methodologies established by the City of San José and the Santa Clara County Congestion Management Program (CMP). Intersections were selected for study if project traffic would add at least 10 trips per lane per hour during one or more peak hours, consistent with adopted CMP methodology. Traffic conditions at all study intersections and freeway segments were analyzed for the weekday AM and PM Peak Hours. The AM Peak Hour is defined as 7:00AM and 9:00AM and the PM Peak Hour is defined as 4:00PM to 6:00PM. The peak hours represent the periods of greatest traffic congestion on a typical weekday.



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-  = Project Site Location
-  = Study Intersection
-  = Local Bus Routes
-  = Limited Stop Bus Routes

Source: Hexagon Transportation Consultants, Inc., Jan. 2018.

Traffic conditions were evaluated under existing conditions, background conditions⁷⁰, existing plus project conditions, background plus project conditions, and cumulative conditions to determine if the level of service (LOS) of the local intersections in the project area would be adversely affected by project generated traffic. The cumulative impact analysis is provided in Section 6.0. The existing traffic conditions were established based on traffic volumes from the City of San José 2014 CMP Annual Monitoring Report, previously completed traffic studies, and new manual turning-movement counts.

LOS is a qualitative description of operating conditions ranging from LOS A, or free-flowing conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The correlation between average delay and LOS is shown in Table 3.13-2.

Table 3.13-2: Intersection Level of Service Definitions Based on Delay		
Level of Service	Description	Average Control Delay per Vehicle⁷¹
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	10.0 or less
B	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C ⁷² ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.0 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths.	Greater than 80.0

The traffic study analyzed AM and PM Peak Hour traffic conditions for 20 signalized intersections in the vicinity of the project site. The study intersections are listed in Table 3.13-3, below, and the locations of the study intersections are shown on Figure 3.13-2.

Based on the City of San José’s policies, an acceptable operating level of service is defined as LOS D or better at all City controlled intersections. For County of Santa Clara and CMP intersections, an acceptable level of service is LOS E. Because the project site is very near the City boundary with Santa Clara, traffic trips associated with the project site would travel through Santa Clara intersections as well as San José intersections. For this reason, the analysis also took into account the acceptable LOS standard for the City of Santa Clara, which is equivalent to the LOS standard established by the City of San José, LOS D.

⁷⁰ Background conditions are existing plus vehicle trips from approved but not yet constructed development.

⁷¹ Measured in seconds.

⁷² Volume to capacity ratio.

Consistent with City Council Policy 5-3⁷³, the City of San José LOS methodology is TRAFFIC, which is based on the 2000 *Highway Capacity Manual* (HCM) method for signalized intersections.

3.13.1.4 Existing Intersection Operations

Analysis of the existing intersection operations concluded that two San José intersections and two Santa Clara intersections currently operate at an unacceptable LOS during at least one peak hour. For San Jose, an intersection may meet the CMP acceptable LOS but not the City threshold.

- No. 8 – San Tomas Expressway and Stevens Creek Boulevard (AM and PM Peak Hour)
- No. 14 – San Tomas Expressway and Moorpark Avenue (AM Peak Hour)
- No. 16 – San Tomas Expressway and Pruneridge Avenue (AM and PM Peak Hour)
- No. 18 – Lawrence Expressway and Pruneridge Avenue (AM Peak Hour)

All other study intersections currently operate at an acceptable LOS. The results of the existing conditions analysis are summarized in Table 3.13-3. Intersections that do not operate at an acceptable LOS are highlighted in bold.

Table 3.13-3: Study Intersection Level of Service – Existing Conditions				
No.	Intersection	Peak Hour	Average Delay	LOS
1	I-280 SB Ramp and Stevens Creek Boulevard (CMP, SC)	AM PM	24.4 18.7	C B
2	Lawrence Expressway SB and Stevens Creek Boulevard (CMP, SC)	AM PM	20.6 23.6	C C
3	Lawrence Expressway NB and Stevens Creek Boulevard (CMP, SC)	AM PM	32.3 28.6	C C
4	Albany Drive and Stevens Creek Boulevard (SC)	AM PM	24.1 17.5	C B
5	Woodhams Road and Stevens Creek Boulevard (SC)	AM PM	14.4 10.5	B B
6	Kiely Boulevard and Stevens Creek Boulevard (CMP, SJ)	AM PM	37.7 39.2	D D
7	Saratoga Avenue and Stevens Creek Boulevard (CMP, SJ)	AM PM	34.7 39.0	C D
8	San Tomas Expressway and Stevens Creek Boulevard (CMP, SJ)	AM PM	81.8 61.3	F E
9	Winchester Boulevard and Stevens Creek Boulevard (CMP,SJ)	AM PM	35.2 48.0	D D
10	Saratoga Avenue and Moorpark Avenue (CMP, SJ)	AM PM	41.2 47.6	D D
11	Saratoga Avenue and I-280 SB Ramp (CMP, SJ)	AM PM	41.6 35.3	D D
12	Saratoga Avenue and I-280 NB Ramp (CMP, SJ)	AM PM	29.2 22.9	C C

⁷³ City of San José Website. <http://www.sanJoseca.gov/DocumentCenter/Home/View/382>



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-  = Project Site Location
-  = Study Intersection

Source: Hexagon Transportation Consultants, Inc., Jan. 2018.

STUDY INTERSECTIONS FIGURE 3.13-2

13	Saratoga Avenue and Kiely Boulevard (CMP, SJ)	AM PM	38.2 43.9	D D
14	San Tomas Expressway and Moorpark Avenue (CMP, SJ)	AM PM	85.3 48.8	F D
15	San Tomas Expressway and Saratoga Avenue (CMP, SC)	AM PM	61.3 56.8	E E
16	San Tomas Expressway and Pruneridge Avenue (SC)	AM PM	68.3 57.2	E E
17	San Tomas Expressway and Homestead Road (CMP, SC)	AM PM	70.9 49.7	E D
18	Lawrence Expressway and Pruneridge Avenue (SC)	AM PM	62.1 37.0	E D
19	Lawrence Expressway and Homestead Road (CMP, SC)	AM PM	59.5 74.4	E E
Notes: (CMP) VTA Congestion Management Program, (SJ) City of San José, (SC) City of Santa Clara Bold represents intersection operating under unacceptable conditions.				

3.13.1.5 *Background Intersection Operations*

Background traffic conditions represent conditions anticipated to exist after completion of the environmental review process but prior to operation of the proposed development. It takes into account planned transportation system improvements that would occur prior to implementation of the proposed project and background traffic volumes. Background peak-hour traffic volumes are calculated by adding estimated traffic from approved but not yet constructed development to the existing conditions (see Appendix F for a list of Background projects). This traffic scenario represents a more congested traffic condition than the existing conditions scenario since it includes traffic from approved projects. The background conditions analysis is consistent with City of San José policy for transportation analyses though it is not required under CEQA, as it is neither a project scenario nor cumulative analysis but represents conditions anticipated to exist at the time the project is built and operational.

Changes to the Roadway Network

This analysis assumes the transportation network under background conditions would be the same as the existing transportation network with the following exceptions:

Winchester Boulevard and Stevens Creek Boulevard – The planned improvement consists of the addition of a second southbound left-turn at the intersection. The second southbound left-turn lane is to be completed with the approved expansion of the Valley Fair Shopping Center. The traffic associated with the Valley Fair expansion is included within the background volumes described below.

I-280 SB Ramp/Calvert Drive and Stevens Creek Boulevard – As part of the approved Apple Campus 2 project, the intersection would be widened with an additional eastbound right-turn lane for a total of three through lanes and one right-turn lane and provide an eastbound right-turn overlap phase.

Lawrence Expressway NB Ramps and Stevens Creek Boulevard – As part of the approved Apple Campus 2 project, the intersection would be widened with an additional northbound left-turn lane for a total of two left-turn lanes, one left-turn/through lane, and one through/right-turn lane.

Background Intersection Level of Service

The LOS of the study intersections was calculated under background conditions. Analysis of the background intersection operations concluded that the following eight intersections would operate at an unacceptable LOS:

- No. 8 – San Tomas Expressway and Stevens Creek Boulevard (AM and PM Peak Hour)
- No. 9 – Winchester Boulevard and Stevens Creek Boulevard (PM Peak Hour)
- No. 14 – San Tomas Expressway and Moorpark Avenue (AM Peak Hour)
- No. 15 – San Tomas Expressway and Saratoga Avenue (AM and PM Peak Hour)
- No. 16 – San Tomas Expressway and Pruneridge Avenue (AM and PM Peak Hour)
- No. 17 – San Tomas Expressway and Homestead Road (AM and PM Peak Hour)
- No. 18 – Lawrence Expressway and Pruneridge Avenue (AM Peak Hour)
- No. 19 – Lawrence Expressway and Homestead Road (PM Peak Hour)

All other intersections would operate at an acceptable LOS. The results of the background conditions analysis are summarized in Table 3.13-4 below.

No.	Intersection	Peak Hour	Existing		Background	
			Average Delay	LOS	Average Delay	LOS
1	I-280 SB Ramp and Stevens Creek Boulevard (CMP, SC)	AM	24.4	C	27.9	C
		PM	18.7	B	19.0	B
2	Lawrence Expressway SB and Stevens Creek Boulevard (CMP, SC)	AM	20.6	C	38.2	D
		PM	23.6	C	25.9	C
3	Lawrence Expressway NB and Stevens Creek Boulevard (CMP, SC)	AM	32.3	C	34.2	C
		PM	28.6	C	29.5	C
4	Albany Drive and Stevens Creek Boulevard (SC)	AM	24.1	C	23.9	C
		PM	17.5	B	17.3	B
5	Woodhams Road and Stevens Creek Boulevard (SC)	AM	14.4	B	14.1	B
		PM	10.5	B	10.3	B
6	Kiely Boulevard and Stevens Creek Boulevard (CMP, SJ)	AM	37.7	D	37.8	D
		PM	39.2	D	39.2	D
7	Saratoga Avenue and Stevens Creek Boulevard (CMP, SJ)	AM	34.7	C	34.7	C
		PM	39.0	D	40.3	D
8	San Tomas Expressway and Stevens Creek Boulevard (CMP, SJ)	AM	81.8	F	87.8	F
		PM	61.3	E	64.2	E
9	Winchester Boulevard and Stevens Creek Boulevard (CMP, SJ)	AM	35.2	D	38.5	D
		PM	48.0	D	80.3	F
10	Saratoga Avenue and Moorpark Avenue (CMP, SJ)	AM	41.2	D	41.8	D
		PM	47.6	D	48.7	D
11	Saratoga Avenue and I-280 SB Ramp (CMP, SJ)	AM	41.6	D	42.9	D
		PM	35.3	D	35.3	D

12	Saratoga Avenue and I-280 NB Ramp (CMP, SJ)	AM	29.2	C	28.9	C
		PM	22.9	C	22.6	C
13	Saratoga Avenue and Kiely Boulevard (CMP, SJ)	AM	38.2	D	37.3	D
		PM	43.9	D	44.1	D
14	San Tomas Expressway and Moorpark Avenue (CMP, SJ)	AM	85.3	F	87.3	F
		PM	48.8	D	52.0	D
15	San Tomas Expressway and Saratoga Avenue (CMP, SC)	AM	61.3	E	109.0	F
		PM	56.8	E	90.4	F
16	San Tomas Expressway and Pruneridge Avenue (SC)	AM	68.3	E	127.1	F
		PM	57.2	E	118.4	F
17	San Tomas Expressway and Homestead Road (CMP, SC)	AM	70.9	E	132.0	F
		PM	49.7	D	103.4	F
18	Lawrence Expressway and Pruneridge Avenue (SC)	AM	62.1	E	83.1	F
		PM	37.0	D	47.9	D
19	Lawrence Expressway and Homestead Road (CMP, SC)	AM	59.5	E	77.1	E
		PM	74.4	E	90.8	F
Notes: (CMP) VTA Congestion Management Program, (SJ) City of San José, (SC) City of Santa Clara Bold represents intersection operating under unacceptable conditions.						

3.13.1.6 Existing Freeway Operations

Methodology

As prescribed in the CMP guidelines, the level of service for freeway segments is estimated based on vehicle density as shown in Table 3.13-5 below. The CMP defines an acceptable levels of service for freeway segments as LOS E or better.

Level of Service	Description	Density (vehicle/mile/lane)
A	Average operating speeds at the free-flow speed generally prevail. Vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream.	0-11
B	Speeds at the free-flow speed are generally maintained. The ability to maneuver within the traffic stream is only slightly restricted.	>11-18
C	Speeds at or near the free-flow speed of the freeway prevail. Freedom to maneuver within the traffic stream is noticeably restricted, and lane changes require more vigilance on the part of the driver.	>18-26
D	Speeds begin to decline slightly with increased flows at this level. Freedom to maneuver within the traffic stream is more noticeably limited.	>26-46
E	At this level, the freeway operates at or near capacity. Operations at this level are volatile, because there are virtually no usable gaps in the traffic stream, leaving little room to maneuver within the traffic stream.	>46-58
F	Vehicular flow breakdowns occur. Large queues form behind breakdown points.	>58

LOS for key freeway segments in the AM and PM Peak Hours was calculated based on the traffic volumes obtained from VTA's 2014 Monitoring and Conformance Report. Freeways are State controlled and CMP-monitored facilities and, as a result, the minimal acceptable level of service is LOS E.

Existing LOS of Study Freeway Segments

Analysis of the existing freeway concluded that 20 of the 22 study mixed flow freeway segments currently operate at an unacceptable LOS F during at least one peak hour. In addition, the results show nine directional HOV lane segments currently operate at an unacceptable LOS F during at least one peak hour. All other study freeway segments operate at an acceptable LOS under existing conditions. The existing conditions of the study freeway segments are summarized in Table 3.13-6 below.

Table 3.13-6: Study Freeway Segments Level of Service – Existing Conditions					
Freeway	Segment	Direction	Peak Hour	LOS Mixed Lanes	LOS HOV Lanes
SR 17	Hamilton to I-280	NB	AM PM	F C	--- ---
		SB	AM PM	D E	--- ---
I-280	De Anza Boulevard to Wolfe Road	NB	AM PM	F D	E B
		SB	AM PM	C F	C F
I-280	Wolfe Road to Lawrence Expressway	NB	AM PM	F C	F B
		SB	AM PM	C F	B D
I-280	Lawrence Expressway to Saratoga Avenue	NB	AM PM	F D	F B
		SB	AM PM	D F	B E
I-280	Saratoga Avenue to Winchester Boulevard	NB	AM PM	F D	F B
		SB	AM PM	D F	B F
I-280	Winchester Boulevard to I-880	EB	AM PM	C F	B F
		WB	AM PM	F D	F C
I-280	I-880 to Meridian Avenue	EB	AM PM	C F	B F
		WB	AM PM	F C	F A

Table 3.13-6: Study Freeway Segments Level of Service – Existing Conditions					
Freeway	Segment	Direction	Peak Hour	LOS Mixed Lanes	LOS HOV Lanes
I-280	Meridian Avenue to Bird Avenue	EB	AM PM	D F	--- ---
		WB	AM PM	F D	--- ---
I-880	I-280 to Stevens Creek Boulevard	NB	AM PM	F A	--- ---
		SB	AM PM	C C	--- ---
I-880	Stevens Creek Boulevard to North Bascom Avenue	NB	AM PM	F F	--- ---
		SB	AM PM	F D	--- ---
I-880	North Bascom Avenue to The Alameda	NB	AM PM	F F	--- ---
		SB	AM PM	F D	--- ---

3.13.2 Transportation/Traffic Impacts

3.13.2.1 *Thresholds of Significance*

For the purposes of this EIR, a transportation/traffic impact is considered significant if the project would:

- Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit;
- Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways;
- 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;
- Substantially increase hazards due to a design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment);
- Result in inadequate emergency access; or
- Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities or otherwise decrease the performance of safety of such facilities.

3.13.3 Impact Criteria

City of San José – Local Signalized Intersections

Based on the City of San José criteria, a project would cause a significant impact at a signalized intersection if the additional project traffic caused one of the following:

- Cause the level of service at any local intersection to degrade from LOS D or better under background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more; or
- At any designated protected intersection⁷⁴ that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by two or more seconds and the V/C to increase by .005 or more.

City of Santa Clara – Local Signalized Intersections

Based on the City of Santa Clara criteria, a project would cause a significant impact at a signalized intersection if the additional project traffic caused one of the following:

- Cause the level of service at any local intersection to degrade from LOS D or better under background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

CMP – Freeway Segments

Based on CMP criteria, a project would cause a significant impact to a freeway segment if the additional project traffic cause one of the following:

- Cause the level of service on any freeway segment to degrade from an acceptable LOS E or better under existing conditions to an unacceptable LOS F under existing plus project or background plus project conditions; or
- Add more than one percent of the existing freeway capacity to any freeway segment operating at LOS F under existing or background conditions.

3.13.3.1 *Consistency with Plans and Policies*

As discussed below, the proposed project would have a significant impact on the San Tomas Expressway/Saratoga Avenue intersection and four HOV freeway segments on I-280. Mitigation has

⁷⁴ The Winchester Boulevard/Stevens Creek Boulevard intersection is designated as a City of San José protected intersection.

been identified for San Tomas Expressway/Saratoga Avenue intersection to reduce the impact to a less than significant level. The freeway impacts would be significant and unavoidable. Nevertheless, the project proposes a mixed-use development within a designated Urban Village and would place jobs, housing, and retail in proximity to existing transit, jobs, housing, and services, consistent with the General Plan. Therefore, the project is generally consistent with Plan Bay Area, the CMP, and General Plan Policies Policy TR-1.1, Policy TR-1.2, Policy TR-1.4, Policy TR-5.3, Policy TR-8.4, Policy TR-8.6, Policy TR-8.9, Policy TR-9.1, Policy CD-2.3, Policy CD-3.4, and Policy CD-3.6. In addition, the project is consistent with Urban Village Policies CS-2.2, CS-3.5, CS-4.2, UD-5.2, and UD-5.3.

3.13.3.2 Trip Generation Estimates

Traffic trips generated by the proposed project were estimated using rates from the City of San José. A summary of the project trip generation estimates is shown in Table 3.13-7 below.

Table 3.13-7: Project Trip Generation Estimates							
Land Use	Daily Trips	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
<i>Proposed Land Uses</i>							
Apartments	3,870	59	238	297	235	126	361
Retail	880	18	8	26	40	39	79
Office	3,309	412	56	468	76	371	447
Mixed-Use and Transit Reduction	-799	-27	-21	-48	-39	-41	-80
<i>Existing Land Uses</i>							
Office/Restaurant	-1,467	-125	-15	-140	-78	-192	-265
Net New Trips	5,793	337	266	603	239	303	542

3.13.3.3 Existing Plus Project Intersection Operations

The roadway network under existing plus project conditions would be the same as the existing roadway network.

Existing Plus Project Level of Service Analysis

The LOS of the study intersections was calculated under project conditions by adding the new project trips from the proposed development to the existing conditions. Analysis of the existing plus project intersection operations concluded that the same two San José and Santa Clara intersections operating at an unacceptable LOS under existing conditions would continue to operate at an unacceptable LOS in one or more peak hours with the addition of project traffic.

- No. 8 – San Tomas Expressway and Stevens Creek Boulevard (AM and PM Peak Hour)
- No. 14 – San Tomas Expressway and Moorpark Avenue (AM Peak Hour)
- No. 15 – San Tomas Expressway and Pruneridge Avenue (AM and PM Peak Hour)
- No. 18 – Lawrence Expressway and Pruneridge Avenue (AM Peak Hour)

All other study intersections would operate at an acceptable LOS. The results of the existing plus project conditions analysis are summarized in Table 3.13-8 below.

Table 3.13-8: Study Intersection Level of Service – Existing Plus Project Conditions						
No.	Intersection	Peak Hour	Existing		Existing Plus Project	
			Average Delay	LOS	Average Delay	LOS
1	I-280 SB Ramp and Stevens Creek Boulevard (CMP, SC)	AM	24.4	C	24.9	C
		PM	18.7	B	19.4	B
2	Lawrence Expressway SB and Stevens Creek Boulevard (CMP, SC)	AM	20.6	C	20.4	C
		PM	23.6	C	23.2	C
3	Lawrence Expressway NB and Stevens Creek Boulevard (CMP, SC)	AM	32.3	C	32.6	C
		PM	28.6	C	28.7	C
4	Albany Drive and Stevens Creek Boulevard (SC)	AM	24.1	C	24.0	C
		PM	17.5	B	18.3	B
5	Woodhams Road and Stevens Creek Boulevard (SC)	AM	14.4	B	13.1	B
		PM	10.5	B	9.9	A
6	Kiely Boulevard and Stevens Creek Boulevard (CMP, SJ)	AM	37.7	D	37.0	D
		PM	39.2	D	39.2	D
7	Saratoga Avenue and Stevens Creek Boulevard (CMP, SJ)	AM	34.7	C	35.7	D
		PM	39.0	D	39.0	D
8	San Tomas Expressway and Stevens Creek Boulevard (CMP, SJ)	AM	81.8	F	84.1	F
		PM	61.3	E	62.0	E
9	Winchester Boulevard and Stevens Creek Boulevard (CMP,SJ)	AM	35.2	D	35.2	D
		PM	48.0	D	48.2	D
10	Saratoga Avenue and Moorpark Avenue (CMP, SJ)	AM	41.2	D	41.3	D
		PM	47.6	D	47.8	D
11	Saratoga Avenue and I-280 SB Ramp (CMP, SJ)	AM	41.6	D	43.9	D
		PM	35.3	D	36.0	D
12	Saratoga Avenue and I-280 NB Ramp (CMP, SJ)	AM	29.2	C	28.7	C
		PM	22.9	C	22.4	C
13	Saratoga Avenue and Kiely Boulevard (CMP, SJ)	AM	38.2	D	39.0	D
		PM	43.9	D	45.6	D
14	San Tomas Expressway and Moorpark Avenue (CMP, SJ)	AM	85.3	F	86.4	F
		PM	48.8	D	48.9	D
15	San Tomas Expressway and Saratoga Avenue (CMP, SC)	AM	61.3	E	62.5	E
		PM	56.8	E	57.3	E
16	San Tomas Expressway and Pruneridge Avenue (SC)	AM	68.3	E	69.7	E
		PM	57.2	E	57.5	E
17	San Tomas Expressway and Homestead Road (CMP, SC)	AM	70.9	E	72.5	E
		PM	49.7	D	50.5	D
18	Lawrence Expressway and Pruneridge Avenue (SC)	AM	62.1	E	64.1	E
		PM	37.0	D	37.1	D
19	Lawrence Expressway and Homestead Road (CMP, SC)	AM	59.5	E	60.5	E
		PM	74.4	E	74.8	E

Notes: (CMP) VTA Congestion Management Program, (SJ) City of San José, (SC) City of Santa Clara
Bold represents intersection operating under unacceptable conditions.

The four intersections would continue to operate at an unacceptable LOS during at least one peak hour but the addition of project traffic would not result in a substantial increase in delay. As a result, implementation of the proposed project would have a less than significant impact on all study intersections under existing plus project conditions. **(Less Than Significant Impact)**

3.13.3.4 *Background Plus Project Intersection Operations*

Changes to the Roadway Network

This analysis assumes that the transportation network under background plus project conditions would be the same as the transportation network under background conditions.

Background Plus Project LOS Analysis

The LOS of the study intersections was calculated under background plus project conditions by adding the new project trips from the proposed development to the background conditions. Analysis of the background plus project intersection operations concluded that the following intersection would continue to operate at an unacceptable LOS:

- No. 8 – San Tomas Expressway and Stevens Creek Boulevard (AM and PM Peak Hour)
- No. 9 – Winchester Boulevard and Stevens Creek Boulevard (PM Peak Hour)
- No. 14 – San Tomas Expressway and Moorpark Avenue (PM Peak Hour)
- No. 15 – San Tomas Expressway and Saratoga Avenue (AM and PM Peak Hour)
- No. 16 – San Tomas Expressway and Pruneridge Avenue (AM and PM Peak Hour)
- No. 17 – San Tomas Expressway and Homestead Road (AM and PM Peak Hour)
- No. 18 – Lawrence Expressway and Pruneridge Avenue (AM Peak Hour)
- No. 19 – Lawrence Expressway and Homestead Road (PM Peak Hour)

All other study intersections would operate at an acceptable LOS. The results on the background plus project conditions analysis are summarized in Table 3.13-9 below.

Table 3.13-9: Background Plus Project Intersection Levels of Service								
No.	Intersection	Peak Hour	Background		Background Plus Project			
			LOS	Delay	LOS	Delay	Critical Delay	V/C
1	I-280 SB Ramp and Stevens Creek Boulevard (CMP/SC)	AM	27.9	C	29.3	C	2.0	0.022
		PM	19.0	B	20.0	B	1.2	0.015
2	Lawrence Expressway SB and Stevens Creek Boulevard (CMP/SC)	AM	38.2	D	39.8	D	2.8	0.012
		PM	25.9	C	25.7	C	0.1	0.012
3	Lawrence Expressway NB and Stevens Creek Boulevard (CMP/SC)	AM	34.2	C	34.5	C	0.5	0.016
		PM	29.5	C	29.7	C	0.4	0.015
4	Albany Drive and Stevens Creek Boulevard (SC)	AM	23.9	C	23.8	C	0.4	0.033
		PM	17.3	B	18.1	B	0.8	0.039
5	Woodhams Road and Stevens Creek Boulevard (SC)	AM	14.1	B	12.8	B	-0.8	0.016
		PM	10.3	B	9.8	A	-0.4	0.023

No.	Intersection	Peak Hour	Background		Background Plus Project			
			LOS	Delay	LOS	Delay	Critical Delay	V/C
6	Kiely Boulevard and Stevens Creek Boulevard (CMP/SJ)	AM	37.8	D	37.0	D	-0.3	0.024
		PM	39.2	D	39.2	D	-0.1	0.016
7	Saratoga Avenue and Stevens Creek Boulevard (CMP/SJ)	AM	34.7	C	35.6	D	1.5	0.032
		PM	40.3	D	40.3	D	-0.1	0.010
8	San Tomas Expressway and Stevens Creek Boulevard (CMP/SJ)	AM	87.8	F	90.6	F	3.7	0.008
		PM	64.2	E	65.1	E	0.8	0.007
9	Winchester Boulevard and Stevens Creek Boulevard (CMP/SJ)	AM	38.5	D	38.5	D	0.0	0.000
		PM	80.3	F	80.9	F	2.1	0.006
10	Saratoga Avenue and Moorpark Avenue (CMP/SJ)	AM	41.8	D	41.8	D	0.2	0.006
		PM	48.7	D	48.8	D	0.3	0.006
11	Saratoga Avenue and I-280 SB Ramp (CMP/SJ)	AM	42.9	D	45.3	D	4.6	0.016
		PM	35.3	D	36.0	D	1.2	0.020
12	Saratoga Avenue and I-280 NB Ramp (CMP/SJ)	AM	28.9	C	28.4	C	0.2	0.011
		PM	22.6	C	22.1	C	-0.7	0.016
13	Saratoga Avenue and Kiely Boulevard (CMP/SJ)	AM	37.3	D	38.7	D	13.8	0.063
		PM	44.1	D	46.0	D	1.8	0.066
14	San Tomas Expressway and Moorpark Avenue (CMP/SJ)	AM	87.3	F	88.5	F	2.0	0.006
		PM	52.0	D	52.2	D	0.0	0.001
15	San Tomas Expressway and Saratoga Avenue (CMP/SC)	AM	109.0	F	111.9	F	5.0	0.012
		PM	90.4	F	91.6	F	3.0	-0.001
16	San Tomas Expressway and Pruneridge Avenue (SC)	AM	127.1	F	129.0	F	3.5	0.007
		PM	118.4	F	120.3	F	3.2	0.006
17	San Tomas Expressway and Homestead Road (CMP/SC)	AM	132.0	F	134.2	F	4.0	0.007
		PM	103.4	F	105.3	F	3.8	0.006
18	Lawrence Expressway and Pruneridge Avenue (SC)	AM	83.1	F	86.0	F	4.9	0.009
		PM	47.9	D	49.3	D	-0.3	0.005
19	Lawrence Expressway and Homestead Road (CMP/SC)	AM	77.1	E	79.0	E	3.5	0.007
		PM	90.8	F	92.0	F	0.0	0.004

Notes: (CMP) VTA Congestion Management Program, (SJ) City of San José, (SC) City of Santa Clara
Bold represents intersection operating under unacceptable conditions.
 indicates a significant project impact.

The San Tomas Expressway/Saratoga Avenue intersection would result in a significant impact, based on the City of San José and City of Santa Clara impact criteria.

Impact TRAN-1: Implementation of the proposed project would have a significant impact on the San Tomas Expressway and Saratoga Avenue intersection during the AM Peak Hour under background plus project conditions. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures, proposed by the project, identify roadway improvements that could reduce the identified intersection impacts. The feasibility of the mitigation measures is discussed below.

MM TRAN-1.1: Prior to issuance of any building permits, the project applicant shall pay fair share fees to the County of Santa Clara based on the August 2015 update of the County Expressway Plan 2040, which identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 project. Payment of the fee would reduce the impact to a less than significant level.

With implementation of the proposed mitigation, the project would have a less than significant LOS impact under background plus project conditions. **(Less Than Significant Impact with Mitigation)**

3.13.3.5 Existing Plus Project Freeway Segment Operations

Freeway segments were analyzed during AM and PM Peak Hours to calculate the amount of project traffic projected to be added to the nearby freeways.

Analysis of the existing plus project freeway operations concluded that the proposed project would increase traffic volumes by one percent or more on the HOV lanes of six freeway segments (listed below) previously identified as operating at LOS F in at least one direction during at least one of the peak hours of traffic under existing conditions. The project's contribution to the mixed-flow lanes would be less than one percent.

HOV Freeway Segments

- I-280 from De Anza Boulevard to Wolfe Road (PM Peak Hour)
- I-280 from Saratoga Avenue to Winchester Boulevard (PM Peak Hour)
- I-280 from Winchester Boulevard to I-880 (PM Peak Hour)
- I-280 from I-880 to Winchester Boulevard (AM Peak Hour)
- I-280 from Winchester Boulevard to Saratoga Avenue (AM Peak Hour)
- I-280 from Lawrence Expressway to Wolfe Road (AM Peak Hour)

Impact TRAN-2: Implementation of the proposed project would have a significant impact on six HOV freeway segments on I-280. **(Significant Impact)**

Mitigation and Avoidance Measures

Mitigation of significant project impacts on freeway segments would require roadway widening to construct additional through lanes. Because it would not be feasible for the project to bear the responsibility for implementing such improvements, it is recommended the project make a fair share contribution towards the VTA Voluntary Mitigation Program for the impact freeway segments. Because no freeway widening project has been developed by Caltrans or VTA, the impacts on the HOV freeway segments identified would be significant and unavoidable.

3.13.3.6 *Pedestrian/Bicycle Facilities and Transit Operations*

Pedestrian and Bicycle Facilities

Sidewalks are present along all streets in the vicinity of the project site, including Stevens Creek Boulevard, Kiely Boulevard, and Albany Drive. The signalized intersections near the project site all have crosswalks. Overall, the existing network of sidewalks and crosswalks have good connectivity and provides pedestrians with safe routes to the project site and transit stops. There are no designated bike lanes or bike routes in the immediate vicinity of the project site.

The project site is located within the Stevens Creek Boulevard Urban Village Plan area and fronts Stevens Creek Boulevard, which is designated as a Grand Boulevard by the City's General Plan.⁷⁵ Sites located within an Urban Village and locate along a Grand Boulevard would be required to incorporate additional urban design and architectural elements. Consistent with the Grand Boulevard design principles, the project would be required to widen the sidewalk along the Stevens Creek Boulevard frontage to 15 feet.

The San José Bike Plan 2020 and the General Plan identify planned improvements to the bicycle network within the City and provide policies and goals that are intended to promote and encourage the use of multi-modal travel options and reduce the identified project impacts to the roadways system. The planned improvements to the bicycle network would provide the project site with improved connections to the surrounding pedestrian/bike and transit facilities and a balanced transportation system as outlined in the General Plan goals and policies. The proposed project would not result in unsafe conditions for pedestrian or bicyclists and would not preclude implementation of planned improvements. **(Less Than Significant Impact)**

Transit Operations

The project site is served by Routes 22 and 323 on Stevens Creek Boulevard and Routes 57 and 58 on Kiely Boulevard. The bus stops closest to the project site are located on Stevens Creek Boulevard in front of the site and at the Kiely Boulevard/Stevens Creek Boulevard intersections. It is estimated that the project would generate approximately 14 new transit riders in the AM Peak Hour and 15 transit riders in the PM Peak Hour. Assuming service would remain unchanged from the current operations, this would equate to three riders per bus during the peak hours. The bus routes in the immediate area could be accommodate the increase in new riders.

The proposed project will not alter existing transit facilities or conflict with the operation of existing or planned facilities. Therefore, the proposed project will have a less than significant impact on transit operations. **(Less Than Significant Impact)**

⁷⁵ City of San José. *Stevens Creek Urban Village Plan*. Accessed: July 3, 2017. Available at: <https://www.sanjoseca.gov/DocumentCenter/View/66362>.

3.13.4 Operational Issues Not Considered Under CEQA

3.13.4.1 *Queueing – Intersection Operations*

Operations at nearby intersections were evaluated under project conditions to assess whether the project would create a safety impact and for informational purposes. From a CEQA standpoint, there are no thresholds specific to queuing. There is, however, a threshold which states that the project would have a significant impact if the project would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections). It is important to note that lengthening a left-turn queue does not in itself create a safety impact. The following discussion evaluates projected queuing at several intersections and identifies measures that could be employed to accommodate existing and projected queues. The 95th percentile queue length value, on which the analysis is based, indicates that during the peak hour, a queue of this length or less would occur on 95 percent of the signal cycles. A car length is assumed to be 25 feet.

The analysis evaluated the following turning movements at local intersections:

- Kiely Boulevard and Stevens Creek Boulevard – northern left turn
- Saratoga Avenue and Stevens Creek Boulevard – eastbound left turn
- Saratoga Avenue and I-280 SB Ramp – southbound left turns
- Saratoga Avenue and Kiely Boulevard – northbound left turn
- Kiely Boulevard and Albany Drive – northbound left turn

The analysis found that one of the turning movements (Saratoga Avenue and Kiely Boulevard) would experience queues in excess of existing turn-lane storage capacity with implementation of the project and are discussed further below. The remaining four intersections queues would not exceed the existing storage capacity.

Kiely Boulevard and Saratoga Avenue

The northbound left-turn lane has approximately 325 feet of vehicle storage (13 cars). A queuing analysis determined that under existing conditions, the maximum vehicle queues for the northbound left-turn lane at this intersection does not exceed the existing vehicle storage capacity during the AM Peak Hour, but does exceed the storage capacity in the PM Peak Hour. The northbound left-turn queue is 325 feet during the AM Peak Hour and 400 feet during the PM Peak Hour. Under background conditions, the maximum vehicle queues for the northbound left-turn lane would exceed the existing vehicle storage capacity during the AM Peak Hour by one vehicle (25 feet) and during the PM Peak Hour by three vehicles (75 feet). Under background plus project conditions, the queue length would increase to 15 vehicles (375 feet) in the AM Peak Hour and 17 vehicles (425 feet) in the PM Peak Hour. It is recommended the existing northbound left-turn lanes on Saratoga Avenue be extended approximately 100 feet by reconfiguring the center median.

3.13.4.2 *Parking*

The San José Municipal Code (Chapter 20.90.060) details the required parking ratios for all land uses. Office uses are required to provide one space per 250 square feet of floor area and retail uses are required to provide one space per 200 square feet. Multi-family residential is required to provide 1.25 spaces for one-bedroom units, 1.7 spaces for two-bedroom units, and 2.0 spaces for three

bedroom units. Based on these requirements, the project would be required to provide 2,040 off-street parking spaces (94 for retail use, 1,020 for the office, and 926 for residential use). The Urban Village Overlay allows for a 20 percent parking reduction since the project is located within the Stevens Creek Boulevard Urban Village. With the reduction, the project would be required to have 720 off-street parking spaces for the residential development, 75 off-street parking spaces for the retail development, and 831 off-street parking spaces for the office development. The project proposes 757 residential parking spaces and 908 retail/office parking spaces, which meets the reduced parking requirements.

The City also requires one bicycle parking space per four residential units, one space per 4,000 square feet of office, and 3,000 square feet of retail. The project would be required to provide a total of 154 bicycle parking spaces. The project would be required, as a condition of project approval, to meet the City's bicycle parking requirement.

3.13.5 Conclusion

With implementation of the proposed mitigation, the LOS impact on the San Tomas Expressway/Saratoga Avenue intersection would be reduced to a less than significant level. **(Less Than Significant Impact with Mitigation)**

There are no feasible mitigation measures to reduce the identified four freeway segments. **(Significant Unavoidable Impact)**

The proposed project would have a less than significant impact on existing and planned pedestrian, bicycle, and transit facilities. **(Less Than Significant Impact)**

3.14 UTILITIES AND SERVICE SYSTEMS

The following discussion is based, in part, on a Water Supply Assessment prepared by *San Jose Water Company* in March 2018. The report can be found in Appendix G of this EIR.

3.14.1 Environmental Setting

3.14.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

The General Plan includes the following utility-related policies applicable to the proposed project.

Policy MS-1.4: Foster awareness in San José’s business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City’s potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

3.14.1.2 *Existing Conditions*

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by the San José Water Company. The project site is currently developed with three office buildings, two commercial buildings, and surface parking lots. It is estimated that the existing buildings on-site use approximately 29,500 gallons of water per day.

There are currently no recycled water lines in the immediate site vicinity.⁷⁶

3.14.1.3 *Sanitary Sewer/Wastewater Treatment*

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José’s Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.⁷⁷ The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay

⁷⁶ South Bay Water Recycling. *Recycled Water Pipeline System*. July 28, 2011. Available at: <https://www.sanjoseca.gov/DocumentCenter/View/4692>. Accessed on: October 13, 2016.

⁷⁷ City of San José. San José-Santa Clara Regional Wastewater Facility. <http://www.sanjoseca.gov/?nid=1663> Accessed March 6, 2018.

from the Facility. Approximately 10 percent of the plant’s effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations.

Sanitary sewer lines in the area are owned and maintained by the City of San José. There are existing eight-inch, 15-inch, and 18-inch sanitary sewer lines along Albany Drive and Stevens Creek Boulevard. The General Plan FEIR (as amended) states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). The existing uses at the site are retail and office and it is estimated that 90 percent of the water utilized at the site is discharged to the sewer system. Based on this estimate, the existing commercial uses generate approximately 26,550 gallons of wastewater per day.

Based on the General Plan FEIR (as amended), the City’s average dry weather flow is approximately 69.8 million gallons per day (mgd). The City’s capacity allocation at the San José Santa Clara Regional Wastewater Facility is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

3.14.1.4 *Stormwater Drainage*

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Saratoga Creek. Saratoga Creek flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

Currently, 85 percent of the project site is covered with impervious surfaces. There are existing storm drain lines along Stevens Creek Boulevard and Albany Drive that currently serve the site and would also serve the proposed development.

3.14.1.5 *Solid Waste*

Santa Clara County’s Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. According to the IWMP, Santa Clara County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year. It is estimated that the existing uses generate approximately 815 pounds of solid waste per day.^{78,79}

3.14.1.6 *Regulatory Framework*

The General Plan includes the following utility-related policies applicable to the proposed project.

⁷⁸ The solid waste generation is based on a solid waste generation rate of 2.5 pounds per 1,000 square feet per day for commercial retail space and six pounds per 1,000 square feet per day for office use.

⁷⁹ CalRecycle. “Estimated Solid Waste Generation Rates”. Accessed: March 7, 2018. Available at: <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>.

Policy MS-1.4: Foster awareness in San José’s business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City’s potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

3.14.2 Utilities and Service Systems Impacts

3.14.2.1 *Thresholds of Significance*

For the purposes of this EIR, a utilities and service systems impact is considered significant if the project would:

- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- Require or result in the construction of new waste or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- 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;
- Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed;
- 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;
- Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs; or
- Comply with federal, state, and local statutes and regulations related to solid waste.

3.14.2.2 *Consistency with Plans and Policies*

The proposed project would be built in accordance with the City’s Green Building Measures, including water efficient fixtures and landscaping and recycling of solid waste. Therefore, the project would be consistent with General Plan Policies MS-1.4, MS-3.2, and MS-3.3.

3.14.2.3 *Water Supply*

Based on the Water Supply Assessment (WSA) prepared by the San Jose Water Company, the proposed development would result in a net increase in water use on-site of 242,000 gpd. This represents a 0.18 percent increase in overall citywide demand.

San Jose Water Company has determined that the level of development proposed on the project site and the projected increase in water demand is consistent with the growth projections and future water

demand assumed in the preparation and analysis of the SJWCo's 2010 Urban Water Management Plan (UWMP). The SJWCo's 2010 UWMP concluded that sufficient water supplies are available to meet the project demand. As such, there is sufficient water supply to serve the project site under normal water year (non-drought) conditions.

In addition to normal water years, the WSA and UWMP assessed the ability of San Jose Water Company to meet forecasted water demands (including the proposed project) during multiple dry weather (drought) years. San Jose Water Company concluded that with projected supply totals and implementation of conservation measures consistent with its Water Shortage Contingency Plan, the retailer would be able to meet projected demand during multiple dry water years.

Implementation of the proposed project will not have a significant impact on existing and future water supplies. **(Less Than Significant Impact)**

3.14.2.4 *Wastewater Capacity/Exceedance of Treatment Requirements*

The project site currently generates approximately 26,550 gpd of wastewater. The proposed project would generate approximately 268,300 gpd of wastewater⁸⁰, a net increase of 241,750 gpd over current conditions.

As stated previously, the City currently has approximately 38.8 mgd of excess wastewater treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. As a result, development allowed under the Envision San José 2040 General Plan (including the proposed project) would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the proposed project would have a less than significant impact on wastewater treatment capacity. **(Less Than Significant Impact)**

3.14.2.5 *Drainage Facility Expansion*

Under existing conditions, approximately 379,392 square feet (85 percent) of the project site is covered with impervious surfaces. With implementation of the proposed project, the amount of impervious surfaces on-site would decrease by approximately 46,612 square feet (10 percent).

The existing storm drainage system has sufficient capacity to convey runoff from the site under existing conditions. With the decrease in impervious surfaces, the overall volume of runoff entering the storm drainage system would also decrease. In addition, the stormwater treatment facilities would regulate the volume of water entering the system. As a result, the project would not cause stormwater runoff to exceed the available capacity of the system. **(Less Than Significant Impact)**

3.14.2.6 *Storm Drainage Impacts*

Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. As a result, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Management Policy 6-29 and the RWQCB Municipal

⁸⁰ This total is based on the assumption that the total potable water use for the proposed residential, retail, and office uses is equivalent to the total wastewater that would be generated by the project.

Regional NPDES permit. In order to meet these requirements, the proposed development would include stormwater treatment devices (media filter, flow-through planters, and pervious pavers). Stormwater runoff from the site would drain into the stormwater treatment facilities prior to entering the storm drainage system. The proposed treatment facilities would be numerically sized and would have sufficient capacity to treat the roof, hardscape, and parking area runoff entering the storm drainage system consistent with the NPDES requirements. While mechanical treatment of stormwater is typically not acceptable as a means of treatment, the project is an infill, transit-oriented development which qualifies as a Category C Special Project. Projects in this category are permitted to treat a minimum of 10 percent of runoff by bioretention and a maximum of 90 percent by mechanical filtration, unless otherwise approved by the City of San José.

The General Plan FEIR (as amended) concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan that would be consistent with RWQCB requirements and in compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

3.14.2.7 *Landfill Capacity and Waste Regulation*

The proposed project would generate approximately 3,985 pounds of solid waste per day, a net increase of 3,170 pounds compared to the existing use⁸¹. The General Plan FEIR (as amended) concluded that the increase in waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from developments allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

The proposed project is consistent with the development assumptions in the General Plan; therefore, implementation of the proposed project would have a less than significant impact on the solid waste disposal capacity. **(Less Than Significant Impact)**

3.14.3 **Conclusion**

The proposed project will have a less than significant utilities impact. **(Less Than Significant Impact)**

⁸¹ CalRecycle. Residential, Commercial, and Service Estimated Solid Waste Generation and Disposal Rates. <https://www2.calrecycle.ca.gov/WasteCharacterization/General/Rates>. Site visited March 7, 2018. 0.006 pounds/square foot/day*15,000 square feet of retail = 90 pounds; 0.006 pounds/square foot/day*300,000 square feet office = 1,800 pounds; 3.6 pounds/unit/day*582= 2,095 pounds.

SECTION 4.0 CUMULATIVE IMPACTS

4.1 CUMULATIVE ANALYSIS

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

The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence. To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar document. The analysis must then determine whether the project’s contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3).

The cumulative discussion for each environmental issue addresses two aspects of cumulative impacts: 1) would the effects of all of the pending development listed result in a cumulatively significant impact on the resources in question? And, if that cumulative impact is likely to be significant, 2) would the contributions to that impact from the proposed project make a cumulatively considerable contribution to those cumulative impacts?

Table 4.0-1 identifies the pending and approved projects in the project vicinity that are evaluated in the cumulative analysis. These projects were included primarily because traffic from the listed projects and the proposed project could utilize the same intersections.

Project Name	Address	Distance from Proposed Project (miles)	Project Description	Estimated Construction Schedule	
				Start	End
Garden City Mixed-Use ⁸²	Multiple (Southeast corner of Stevens Creek Blvd and Saratoga Ave)	0.4 miles	871 residential units, 457,000 square feet of office, 15,043 square feet of retail, and 2.5-acre public park and private amenities for future occupants.	December 2018	October 2021

⁸² The Garden City Mixed-Use project was withdrawn after release of the second NOP. The project is, however, still included in the cumulative analysis as the technical studies were initiated prior to the project’s withdrawal. Given the proximity of the projects, the cumulative analysis is conservative in its conclusions of potential cumulative effects.

Volar Mixed-Use	350 Winchester Boulevard	1.53 miles	307 residential units, 26,999 square feet of office, 16,516 square feet of retail, and 8,652 square feet of restaurant	April 2017	October 2018
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The cumulative analysis also includes:

- North San José Phase II
- San José Downtown Strategy 2040
- City Place in the City Santa Clara
- Applicable approved and pending projects in Cupertino

The Notice of Preparation (NOP) for the project was issued in February 2017. The NOP was reissued in January 2018 due to a proposed increase in the size of the project. Between February 2017 and January 2018, two projects in the greater project area have been initiated. These projects include:

- Agrihood (90 N. Winchester Boulevard) – Santa Clara
- AC Hotel (5696 Stevens Creek Boulevard) – San Jose

Given the distances between these projects and the proposed project, the only potential cumulative effect would be from traffic. The City determined that while these projects would share one or more study intersections with the proposed project, the traffic trips resulting from the project would be negligible. Therefore, these projects were not studied further.

Additionally, the Volar Mixed Use Project (Volar) was approved in June 2017, in between the publication of the original PON for the project in February 2017 and publication of the revised NOP in January 2018. The cumulative analysis for the project initially included the Volar project as the Volar project was pending at the time the first NOP was issued. However, since the Volar project was approved prior to publication of the revised NOP, staff evaluated the Volar project as background conditions and concluded that the identified impacts would remain the same.

The effects of past projects are typically on the ground and reflected in the existing conditions, especially those related to traffic, air quality, and noise.

4.1.1 Cumulative Transportation Impacts

Traffic volumes under cumulative conditions were estimated by adding the trips from proposed but not yet approved (pending) development projects within the City of San José and Santa Clara to background condition traffic volumes. Cumulative plus project conditions are the cumulative no project condition plus project generated traffic.

Significance Thresholds – City of San José

A project would have a significant cumulative LOS impact if it would:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under cumulative plus project conditions; or
- For any local intersection that is already an unacceptable LOS E or F under background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the V/C to increase by one percent (0.01) or more⁸³.
- For any designated protected intersection⁸⁴ that is already an unacceptable LOS E or F under background conditions, causes both the critical-movement delay at the intersection to increase by two or more seconds and the V/C to increase by one-half percent (0.005) or more.

A single project's contribution to a cumulative intersection impact is deemed considerable in the City of San José if the project traffic contributes 25 percent or more to the increase in total traffic volume from background traffic conditions to cumulative traffic conditions. A significant cumulative impact is deemed mitigated to a less than significant level by the City of San José if the measures implemented would restore the intersection LOS to background conditions or better at non-protected intersections.

Significance Thresholds – City of Santa Clara

The project is said to create a significant adverse impact on traffic conditions at a signalized intersection in the City of Santa Clara if for either peak hour:

- The level of service at the intersection degrades from an acceptable level (LOS D or better at all city-controlled intersections and LOS E or better at all expressway intersections) under cumulative no project conditions to an unacceptable level (LOS E or F at city-controlled intersections and LOS F at expressway intersections) under cumulative conditions, or
- The level of service at the intersection is an unacceptable level (LOS E or F at city-controlled intersections and LOS F at expressway intersections) under cumulative no project conditions and the addition of project trips causes the average critical delay to increase by four or more seconds and the V/C to increase by one percent or more.

An exception to this threshold applies when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e., the critical movement is negative). In this case, the threshold of significance is an increase in the critical V/C of 0.01 or more. A significant cumulative impact is deemed mitigated to a less than significant level by the City of Santa Clara if the measures implemented would restore the intersection levels of operation to cumulative no-project conditions or better.

4.1.1.1 *Changes to the Roadway Network*

This analysis assumes the transportation network under cumulative plus project conditions would be the same as the transportation network under background conditions.

⁸³ An exception to this threshold applies when the addition of project traffic reduces the amount of average stopped delay for critical movements (i.e., the critical movement is negative). In this case, the threshold of significance is an increase in the critical V/C of 0.01 or more.

⁸⁴ The Winchester Boulevard/Stevens Creek Boulevard intersection is designated as a City of San José protected intersection.

4.1.1.2 Cumulative Intersection Level of Service Impacts

The results of the cumulative plus project conditions analysis are summarized in Table 4.0-2 below. Consistent with the methodologies for each City, for San José intersections the cumulative plus project conditions were compared to background conditions, and for Santa Clara intersections the cumulative plus project conditions were compared to cumulative conditions. Because San José compared cumulative plus project to background, only background numbers are provided, the same is true for Santa Clara intersections which are compared to cumulative conditions.

Table 4.0-2: Intersection Level of Service – Cumulative Conditions										
No.	Intersection	Peak Hour	Background		Cumulative		Cumulative Plus Project			
			Delay	LOS	Delay	LOS	Delay	LOS	Δ in Critical Delay	Δ in Critical V/C
1	I-280 SB Ramp and Stevens Creek Boulevard (CMP/SC)	AM PM			28.3 19.0	C B	29.8 19.9	C B	2.2 1.2	0.022 0.015
2	Lawrence Expressway SB and Stevens Creek Boulevard (CMP/SC)	AM PM			40.4 25.9	D C	42.2 25.8	D C	3.1 0.1	0.012 0.013
3	Lawrence Expressway NB and Stevens Creek Boulevard (CMP/SC)	AM PM			34.2 29.6	C C	34.5 29.8	C C	0.5 0.3	0.016 0.015
4	Albany Drive and Stevens Creek Boulevard (SC)	AM PM			23.6 17.0	C B	23.5 17.8	C B	0.5 0.8	0.033 0.039
5	Woodhams Road and Stevens Creek Boulevard (SC)	AM PM			13.6 10.0	B B	12.4 9.4	B A	-0.7 -0.4	0.016 0.023
6	Kiely Boulevard and Stevens Creek Boulevard (CMP/SJ)	AM PM	D D	37.8 39.2			36.9 39.0	D D	-0.1 -0.1	0.033 0.029
7	Saratoga Avenue and Stevens Creek Boulevard (CMP/San José)	AM PM	C D	34.7 40.3			36.1 41.9	D D	1.8 3.1	0.044 0.079
8	San Tomas Expressway and Stevens Creek Boulevard (CMP/SJ)	AM PM	F E	87.8 64.2			96.9 68.1	F E	12.9 3.0	0.028 0.026
9	Winchester Boulevard and Stevens Creek Boulevard (CMP/SJ)	AM PM	D F	38.5 80.3			39.5 98.0	D F	0.9 34.6	0.024 0.089
10	Saratoga Avenue and Moorpark Avenue (CMP/SJ)	AM PM	D D	41.8 48.7			42.2 49.5	D D	0.8 1.3	0.025 0.026
11	Saratoga Avenue and I-280 SB Ramp (CMP/SJ)	AM PM	D D	42.9 35.3			48.1 36.7	D D	11.6 2.4	0.040 0.041
12	Saratoga Avenue and I-280 NB Ramps (CMP/SJ)	AM PM	C C	28.9 22.6			28.0 21.6	C C	-23.2 -1.3	0.025 0.031

Table 4.0-2: Intersection Level of Service – Cumulative Conditions

No.	Intersection	Peak Hour	Background		Cumulative		Cumulative Plus Project			
			Delay	LOS	Delay	LOS	Delay	LOS	Δ in Critical Delay	Δ in Critical V/C
13	Saratoga Avenue and Kiely Boulevard (CMP/SJ)	AM PM	D D	37.3 44.1			38.0 48.3	D D	0.8 5.0	0.048 0.099
14	San Tomas Expressway and Moorpark Avenue (CMP/SJ)	AM PM	F D	87.3 52.0			92.0 53.1	F D	7.8 0.9	0.023 0.017
15	San Tomas Expressway and Saratoga Avenue (CMP/SC)	AM PM			134.6 98.8	F F	137.6 101.0	F F	5.1 4.5	0.012 0.010
16	San Tomas Expressway and Pruneridge Avenue (CMP/SC)	AM PM			153.2 132.7	F F	155.2 134.5	F F	3.6 3.2	0.007 0.006
17	San Tomas Expressway and Homestead Road (CMP/SC)	AM PM			158.6 107.8	F F	160.7 109.6	F F	4.1 3.7	0.007 0.006
18	Lawrence Expressway and Pruneridge Avenue (CMP/SC)	AM PM			85.4 53.7	F D	88.2 54.9	F D	5.0 -0.3	0.009 0.005
19	Lawrence Expressway and Homestead Road (CMP/SC)	AM PM			84.2 97.4	F F	86.3 98.6	F F	4.0 2.1	0.007 0.008

Notes: (CMP) VTA Congestion Management Program, (SJ) City of San José, (SC) City of Santa Clara
Bold represents intersection operating under unacceptable conditions.
Outline Denotes a significant project impact.

Of the impacted intersections, the project would contribute more than 25 percent of the increased delay at the following City of San José intersections:

San Tomas Expressway and Stevens Creek Boulevard (AM Peak Hour): This intersection would continue to operate at LOS F during the AM Peak Hour under cumulative plus project conditions with a 12.9 second increase in critical delay and a 0.28 increase in V/C. The project would contribute 38 percent of the increase in traffic volume in the AM Peak Hour under cumulative conditions.

San Tomas Expressway and Moorpark Avenue (AM Peak Hour): This intersection would continue to operate at LOS F during the AM Peak Hour under cumulative plus project conditions with a 7.8 second increase in critical delay and a 0.023 increase in V/C. The project would contribute 31 percent of the increase in traffic volume in the AM Peak Hour under cumulative conditions.

The proposed project would not have a cumulatively considerable impact on any City of Santa Clara intersections.

Impact TRAN(C)-1: The proposed project would result in a cumulatively considerable contribution to the significant impact at the San Tomas Expressway/Stevens Creek Boulevard and San Tomas Expressway/Moorpark Avenue intersections. **(Significant Impact)**

4.1.1.3 *Mitigation Measures for Cumulative Transportation Impacts*

The following mitigation measures identify roadway improvements that could reduce the identified intersection impacts. The LOS at the San Tomas Expressway/Stevens Creek Boulevard and San Tomas Expressway/Moorpark Avenue intersections would be improved over background conditions with the addition of a fourth through lane to both the northbound and southbound approaches. Therefore, the project shall implement the following mitigation measures to reduce the impact to less than significant at these intersections.

MM TRAN(C)-1.1: The August 2015 update of the County Expressway Plan 2040 identifies the widening of San Tomas Expressway to eight lanes (by adding a fourth through lane in each direction) between Homestead Road and Stevens Creek Boulevard as a Tier 1 project. The project applicant shall pay fair share fees towards the identified improvement. Payment of the fee would reduce the impact to a less than significant level prior to the issuance of occupancy permits.

With implementation of the identified mitigation measures, the cumulative traffic impacts would be reduced to less than significant. **(Less Than Significant Cumulative Impact with Mitigation)**

4.1.2 Cumulative Air Quality Impacts

The project would result in a temporary TAC emissions impact resulting from construction of the proposed development, due to the proximity of sensitive receptors. The impact would be temporary and would be reduced to a less than significant level with implementation of the proposed mitigation measures. Construction of the proposed project, combined with existing mobile and stationary emissions sources in the area could result in a temporary cumulative impact. The Tosco-Unocal facility (Plant G4436) is not included in the cumulative assessment because it is more than 1,000 feet from the construction MEI adjacent to the project site. All other pending projects are outside the impact area for cumulative construction emissions. Table 4.0-3 shows the cumulative health risk during project construction.

Table 4.0-3: Cumulative Community Risk Impacts During Construction			
Source	Maximum Cancer Risk (per million)	Maximum Hazard Index	Maximum Annual PM_{2.5} Concentration
Proposed Project – Unmitigated Construction Emissions	49.4	0.04	0.026
Plant 3721 – Smythe European	<1.6	<0.01	<0.01
Kiely Boulevard	<0.6	<0.03	<0.02
Stevens Creek Boulevard	<1.9	<0.01	<0.28
Unmitigated Cumulative Total Emissions	<53.5	<0.09	<0.57
BAAQMD Thresholds	100	10.0	0.8

Even without the identified project mitigation, the cumulative emissions would not exceed BAAQMD thresholds. In addition, the cumulative effect of these emissions would be temporary. As a result, the project’s contribution to a cumulatively significant TAC emissions impact would not be considerable. **(Less Than Significant Cumulative Impact)**

4.1.3 Cumulative Noise Impacts

4.1.3.1 *Traffic Noise*

Traffic trips associated with the proposed project would slightly increase ambient noise levels on the adjacent streets. The proposed project, combined with other pending and approved projects in the immediate area would increase ambient noise levels over existing conditions by up to one dBA DNL.

A substantial permanent cumulative noise increase would occur if the project 1) contributed a minimum one dBA DNL to an overall five dBA DNL noise increase where future noise levels would be less than 60 dBA DNL, or 2) contributed a minimum one dBA DNL to an overall three dBA DNL noise increase where future noise levels would be 60 dBA DNL or more. As noted above, traffic noise increases of along Stevens Creek Boulevard and Albany Drive would be the same under cumulative conditions as cumulative plus project conditions. As a result, the project would not result in a cumulatively considerable increase in ambient noise levels on Stevens Creek Boulevard and Albany Drive. **(Less Than Significant Cumulative Impact)**

4.1.3.2 *Construction Noise*

At the time the EIR Notice of Preparation was released, there is one pending project (Garden City) in the vicinity of the project site. While the Garden City project is located within approximately one-half mile of the project site, construction of the proposed project is not anticipated to overlap with any other development in the project area. There is a substantial amount of development and two major roadways between the sites. The existing noise environment is such that if the two projects are constructed on similar schedules, there would be no cumulative effect on nearby sensitive receptors. As a result, the cumulative construction noise impact would be less than significant. **(Less Than Significant Cumulative Impact)**

4.1.4 Other Cumulative Impacts

Based on the analysis in this EIR, the proposed project would have no impact on agricultural/forestry resources and mineral resources, and a less than significant impact on aesthetics, cultural resources, energy, geology and soils, hydrology and water quality, and land use (including population and housing). The degree in which the proposed project would add to existing or probable future impacts on existing land uses or the aforementioned resources would be negligible.

The analysis did identify impacts to migratory birds as a result of project construction. These impacts are, however, temporary and would be reduced to a less than significant level with implementation of the proposed mitigation measures. Because of the temporary nature of these impacts and the fact that the impacts will be mitigated, there would be no long term cumulative effect. As a result, the projects contribution to a cumulatively significant biological resources impact would not be considerable. **(Less Than Significant Cumulative Impact)**

4.1.4.1 *Hazardous Materials*

Hazardous materials contamination is typically a localized issue. The proposed project has identified specific mitigation measures to address residual soil contamination on-site, as well as asbestos and lead-based paint from older structures on-site. The proposed development would not pose a risk

from the use or storage of hazardous materials. Future redevelopment within the Stevens Creek Boulevard Urban Village and intensification of growth throughout the City of San José could expose existing soil and/or groundwater contamination which would need to be remediated. The most likely impact to nearby sensitive receptors and construction workers would be exposure during removal and off-haul of contaminants. Based on other pending projects within approximately one mile of the project site, it is unlikely that the remediation of multiple project sites within a limited geographical area could occur at the same time. Truck routes would be established by the City to avoid residential and other sensitive areas and remediation activities would be required to comply with all applicable regulations. Therefore, redevelopment within the Stevens Creek Boulevard Urban Village and nearby Urban Villages would not result in a cumulatively significant hazardous materials impact. **(Less Than Significant Cumulative Impact)**

4.1.4.2 *Utilities and Public Services*

The project's use of energy, water, the sanitary sewer system, and landfills, as well as police and fire protection services and local community services (schools, parks, libraries, etc.) was accounted for in General Plan as part of the planned growth of the City. When applicable, the General Plan identified the need for increased services and infrastructure to support the planned growth of the City. The project, by itself, will have a less than significant impact on these resources and services. The proposed project, combined with future redevelopment within the Stevens Creek Boulevard (Mid) Urban Village and intensification of growth throughout the City of San José, would significantly increase the use/need for these resources and services, but would not result in a significant cumulative impact. As a result, the project's contribution to the increased use of in any of these resource areas would not be considerable. **(Less Than Significant Cumulative Impact)**

4.1.4.3 *Greenhouse Gas Emissions*

The proposed development is consistent with the General Plan and would have a less than significant GHG emissions impact through 2020. Due to the nature of GHG emissions, a significant project level impact is equivalent to a significant cumulative impact. Because the project would have a less than significant project level impact through 2020, the project's contribution to GHG emissions would not be considerable. **(Less Than Significant Cumulative Impact)**

There is the potential, however, for the project to not be fully constructed and operational until after January 1, 2021. Operational emissions were estimated to be above the 2030 substantial progress threshold. As such, completion of the proposed project after January 1, 2021 would result in a significant project level GHG impact. If the project were to have a significant project level impact, the project's contribution to GHG emissions would be considerable.

As previously discussed, the project is consistent with the development assumptions in the General Plan. As such, post-2020 GHG emissions from the project have been accounted for and already disclosed as a significant and unavoidable impact and accepted by the City Council in adopting the San Jose General Plan. Therefore, completion of the proposed project after January 1, 2021 would not result in a new impact or substantially increase the severity of the previously identified GHG emissions impact. **(Significant Unavoidable Impact)**

4.1.5 Conclusion

Implementation of the proposed project would result in a cumulatively considerable impact to the San Tomas Expressway/Stevens Creek Boulevard and San Tomas Expressway/Moorpark Avenue intersections. Mitigation has been identified to reduce these impacts to a less than significant level. Implementation of the proposed project would not result in a cumulatively considerable impact under any other resource area. **(Less Than Significant Cumulative Impact with Mitigation)**

SECTION 5.0 GROWTH-INDUCING IMPACTS

For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility [road or sewer line] necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project proposes development on an underutilized parcel considered an infill site in the City of San José. The site is surrounded by existing infrastructure and both existing and planned development. Development of the proposed project would not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

The proposed project would place new office and retail space and new residences adjacent to existing retail, housing, and commercial development on a major transportation corridor within the Stevens Creek Boulevard Urban Village, an area designated for intensification in the City's Envision San Jose 2040 General Plan. The proposed project is within the growth capacity anticipated in the Stevens Creek Boulevard Urban Village and would be compatible with the neighboring land uses as it will follow the height and setback standards of the Urban Village Plan. The project ~~and~~ would not pressure adjacent properties to redevelop with new or different land uses, in a manner inconsistent with the existing General Plan and the Stevens Creek Boulevard Urban Village Plan.

Therefore, the project would not have a significant growth inducing impact.

SECTION 6.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address “significant irreversible environmental changes which would be involved in the proposed project, should it be implemented.” [§15126(c)]

If the proposed project is implemented, future development on the site would involve the use of non-renewable resources both during construction phases and future operations/use of the site.

Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants shall use non-renewable fuels to heat and light the buildings. The proposed project would also result in the increased consumption of water. Water consumption at the project site is currently low due to the nature of the uses present (commercial and office).

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. New buildings shall be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed consistent with the City’s Green Building Policy and would, as a result, use less energy for heat and light and less water than standard design buildings. The site provides an expansion of job opportunities that are more reasonably proximate to existing housing and transportation networks in Santa Clara, San José, and Cupertino than housing farther away in the south county and other counties to the north. The proposed project would, therefore, facilitate a more efficient use of resources over the life time of the project.

SECTION 7.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following significant unavoidable impacts have been identified as resulting from the proposed project:

1. Implementation of the proposed project would have a less than significant operational GHG impact if the project is fully constructed and operational by January 1, 2021. If the project is not completed until after January 1, 2021, the operational GHG impact would be significant and unavoidable.
2. Implementation of the proposed project would have a significant unavoidable impact on six HOV freeway segments on I-280.
3. Implementation of the proposed project would have a less than significant cumulative operational GHG impact if the project is fully constructed and operational by January 1, 2021. If the project is not completed until after January 1, 2021, the operational GHG impact would be cumulatively considerable and, therefore, would be significant and unavoidable.

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in this EIR

SECTION 8.0 ALTERNATIVES

8.1 OVERVIEW

The California Environmental Quality Act (CEQA) requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

Section 15126.6(a). Consideration and Discussion of Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

Section 15126.6(b). Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by an alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

8.2 SIGNIFICANT IMPACTS FROM THE PROJECT

The significant impacts identified in this EIR resulting from the proposed project include:

- Impact AIR-1: Construction of the proposed project would result in a temporary community risk impact. (Less Than Significant with Mitigation Measures MM AIR-1.1-1.3)

- Impact BIO-1: Construction activities associated with the proposed project could result in an impact to nesting migratory birds due to the loss of fertile eggs or nest abandonment. (Less Than Significant Impact with Mitigation Measures MM BIO-1.1 and MM BIO-1.2).
- Impact HAZ-1: Implementation of the proposed project could release pesticide chemicals from on-site soils into the environment and expose construction workers to residual agricultural soil contamination. (Less Than Significant with MM HAZ-1.1 to MM HAZ-1.3).
- Impact TRAN-1: Implementation of the proposed project would have a significant impact on the San Tomas Expressway and Saratoga Avenue intersection under background plus project conditions (Less Than Significant with MM TRAN-1.1).
- Impact TRAN-2: Implementation of the proposed project would have a significant impact on six HOV freeway segments on I-280. (Significant Unavoidable Impact)
- Impact TRAN(C)-1: Implementation of the proposed project would result in a cumulatively considerable contribution to the San Tomas Expressway/Stevens Creek Boulevard and San Tomas Expressway/Moorpark Avenue intersections. (Less Than Significant with MM TRAN(C)-1.1)

In addition to the significant impacts listed above, completion of the project after January 1, 2021 would result in a significant, unavoidable GHG emissions impact.

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a), italics added.) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar, supra*, 119 Cal.App.4th at p. 491.) The Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".⁸⁵ The proposed project is a high density mixed-use development within the Stevens Creek Boulevard (Mid) Urban Village in San José. It is not likely that an alternative location within this Urban Village would substantially lessen the identified impacts.

8.3 OBJECTIVES OF THE PROJECT

While CEQA does not require that alternatives be capable of meeting all of the project objectives,

⁸⁵ CEQA Guidelines Section 15126.6(f)(2)(A)

their ability to meet most of the objectives is considered relevant to their consideration. The stated objectives of the project proponent are to:

1. Rezone and redevelop the 10-acre project site to allow for the creation of a mixed-use Urban Village and Signature Project, through Planned Development Zoning and Planned Development Permit processes.
2. Redevelop an existing commercial site to:
 - Provide jobs and housing to meet objectives stated in the San Jose Envision 2040 General Plan and in the Stevens Creek Urban Village Plan;
 - Provide a significant addition of affordable housing to the area's housing stock;
 - Provide job opportunities near existing and future housing areas, and provide housing near new and existing jobs;
 - Situate the proposed land uses near or along major traffic arterials such as Stevens Creek Boulevard, Interstate 280 and both Lawrence and San Tomas Expressways , and rapid bus connection services to allow for multi-modal transit usage for site accessibility with an overall goal of reducing greenhouse gas emissions from the project.
3. Meet high sustainability and green building standards by designing the development to meet US Green Building Code LEED and Cal-Green standards for new construction.
4. Further the goal of the Envision San José 2040 General Plan to “continue to encourage the development of a sound and diverse economic base to support necessary public services. Encourage a stable employment demand corresponding to the City’s labor characteristics. Work towards a sustainable combination of population and production.”
5. Construct up to 22,000 square feet of neighborhood oriented, ground level retail space along Stevens Creek Boulevard.
6. Provide a publicly accessible pedestrian promenade that will serve as a community recreational and gathering space and to connect the surrounding neighborhood with transit and bicycle and pedestrian features on Stevens Creek Boulevard;
7. Construct up to 582 residential rental units including 15 percent below market rate in two buildings.
8. Provide on-site services to residents and support growth in employment and commercial activity by locating limited retail and other commercial uses within the project.
9. Provide an economically sustainable number of units to allow enhancement of the character of the neighborhood by providing common open space areas including plazas, courtyards, a recreation area, and seating areas.
10. Locate higher density housing with easy access to transportation corridors, bus corridor stops, commercial services, and jobs

11. Create a sustainable community by designing public spaces to encourage alternative forms of transportation such as walking, bicycling, and public transportation.
12. Assist the City of San José to satisfy its Regional Housing Needs Allocation for both market rate and below market rate housing units.
13. Construct a new office campus of up to 300,000 square feet.
14. Build office facilities within San José in order to contribute to economic feasibility for immediate and future business operations.

8.4 PROJECT ALTERNATIVES

8.4.1 No Project Alternative

The CEQA Guidelines [Section 15126(d)4] require an EIR specifically include a “No Project” alternative. The purpose of including a No Project alternative is to allow decision-makers to compare the impacts of approving the project with the impacts of not approving the project. The Guidelines specifically advise that the No Project alternative is “what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services.” [Section 15126.6(e)(2)] The Guidelines emphasize that an EIR should take a practical approach, and not “...create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment [Section 15126.6(e)(3)(B)].”

8.4.1.1 *No Project – No Development Alternative*

The No Project – No Development Alternative would retain the existing commercial buildings and surface parking lots, and would not relocate Lopina Way. The existing development is consistent with the underlying General Plan designation, but is not consistent with the Stevens Creek Boulevard Urban Village Plan. If the project site were to remain as is, there would be no new impacts.

8.4.2 No Project – General Commercial Redevelopment Alternative

The project site is currently designated *Urban Village* in the Stevens Creek Urban Village Plan adopted by City Council on August 9, 2017. This land use designation supersedes the site’s previous land use designation of *Neighborhood/Community Commercial* in the City’s General Plan. The *Urban Village* land use designation in the Stevens Creek Urban Village allows mixed-use development with retail, professional and general offices, and institutional uses as well as residential uses in a mixed-use format at densities of 65 to 250 dwelling units per acre. The ~~and~~ site is zoned *CG – Commercial General*, a zoning district that allows a broad range of retail and commercial uses ranging from offices to large commercial retail centers. In the Stevens Creek Urban Village Plan, the *Urban Village* land use designation has no maximum Floor Area Ratio (FAR). However, the project site has a maximum height of 120 feet as shown on the Maximum height diagram for the Stevens Creek Urban Village Planning Area.

The existing one- and two-story commercial buildings combined total approximately 105,000 square feet of commercial space, resulting in an FAR of 0.25. This density of development is below the

development allowed under the *Urban Village* land use designation and the density of development anticipated in the adopted Stevens Creek Urban Village Plan. Therefore, it is reasonable to assume that if the proposed project were not approved, an alternative development would be proposed in the future which would conform to the Urban Village Plan, resulting in an increase in density and height over existing conditions.

Given the site's *Urban Village* land use designation, its location within the adopted Stevens Creek Boulevard Urban Village, as well as the objectives of the City's General Plan, any alternative project proposed on this site under the current *CG* zoning would likely be a commercial and office project comparable in density and scale to what is currently proposed, with additional office or commercial space replacing the residential component of the project, assuming that any proposal would try to maximize development on-site (with the parameters of the Urban Village Plan). Such an alternative would likely result in between 600,000 and 900,000 square feet of commercial/office space.

As a result, transportation impacts would be comparable to the proposed project. Construction air quality and noise impacts would also be comparable to the proposed project because the length of construction and amount of grading would likely be similar assuming a similar amount of underground parking. Other identified impacts to biological resources and hazardous materials would remain the same as the proposed project because this alternative assumes full demolition of existing structures, removal of all landscaping trees on-site, and grading of the site.

Conclusion: Implementation of the no-build "No Project" alternative would avoid the significant impacts identified in this EIR. The no-build No Project alternative would not, however, allow for new high density mixed-use development to be constructed on the project site consistent with the General Plan and the Stevens Creek Boulevard Urban Village Plan. This alternative does not meet any of the objectives of the proposed project.

The "No Project" General Commercial Redevelopment alternative would likely result in the same types of impacts as the proposed project, with or without a rezoning. This alternative could meet objectives 13 and 14, but does not meet most of the objectives of the proposed project.

8.5 REDUCED DEVELOPMENT ALTERNATIVE

In an effort to avoid one or more of the significant transportation impacts that would result from the proposed project but still provide new commercial, retail, and residential on-site, this alternative evaluates a reduced amount of development.

The proposed project would have a transportation impact at the San Tomas Expressway/Stevens Creek Boulevard intersection and on four HOV lane segments on I-280.

The intent of the reduced development alternative is to identify the total development that could occur on the project site and avoid or lessen the transportation impacts.

Based on the traffic data developed for the proposed project, the total number of net new daily traffic trips would need to be reduced by 15 percent (from 5,563 to 4,729) to avoid the intersection impact. This could be accomplished by reducing the overall size and density of one or more of the proposed

land uses.⁸⁶ To avoid the identified freeway impacts, the total number of net new daily traffic trips would need to be reduced by 25 percent (from 5,563 to 4,172).⁸⁷

If the proposed site layout and building footprints were maintained, the reduction in commercial and residential development would result in a reduction in overall building heights. This alternative would maintain the same parking ratios as the proposed project. All other development parameters of this alternative would be the same as the proposed project, including site layout and the inclusion of a 1.5-acre pedestrian promenade.

Any reduction in project size would have an equivalent reduction in construction TAC emissions and construction noise duration. It should be noted that mitigation has been identified to reduce the project level construction TAC and noise impacts to a less than significant level. Cumulative operational noise impacts from traffic would be reduced due to the overall reduction in traffic trips.

There would be no measureable change in the level of impact for hazardous materials from the reduced density scenario compared to the proposed project. Due to the proposed layout of the project and the proposed underground parking, it is reasonable to assume that the reduced density alternative would still remove all the trees currently on the project site. Replacement ratios for removed or damaged trees would remain the same as the proposed project. Mitigation for disturbance of nesting migratory birds during construction would also be the same.

The reduced development alternative would represent an overall reduction in commercial and residential development compared to the proposed project. While the reduced development alternative would be generally consistent with the identified objectives of the proposed project and the development policies of the Envision San José 2040 General Plan and meet the minimum residential FAR requirements of the Urban Village Plan, it would result in the underutilization of a prime redevelopment site within the Stevens Creek Boulevard Urban Village.

Conclusion: Implementation of the Reduced Density Alternative would avoid the identified intersection impacts and cumulative operational noise impact. This alternative generally meets the project objectives, but does not fully utilize the allowable development density of the site.

⁸⁶ A 15 percent reduction in traffic trips would equate to a reduction of 126 residential units or 76,000 square feet of office.

⁸⁷ A 25 percent reduction in traffic trips would equate to a reduction of 209 residential units or 126,000 square feet of office.

SECTION 9.0 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the Reduced Development Alternative because it would avoid the intersection LOS impacts and the cumulative operational noise impact resulting from the project.

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Persons Consulted

No persons outside of City staff and referenced technical consultants and regulatory agency staffs were consulted for this analysis.

SECTION 11.0 LEAD AGENCY AND CONSULTANTS

11.1 LEAD AGENCY

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