MITGATED NEGATIVE DECLARATION

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

NAME OF PROJECT: Tamien Station Transit Oriented Development

PROJECT FILE NUMBER: PDC14-072

PROJECT DESCRIPTION: Planned Development Rezoning from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow up to 440 multi-family residential units and up to 3,000 square feet of ground floor commercial space on an approximately 6.96 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Santa Clara Valley Transportation Authority (VTA) parking lot and childcare center at 1197 Lick Avenue, on the west side of Lick Avenue approximately 470 feet north of W. Alma Avenue (APNs 434-13-040 and -041).

COUNCIL DISTRICT: 3.

APPLICANT CONTACT INFORMATION: Santa Clara Valley Transportation Authority, 3331 N. 1st Street, San Jose, CA 95134 (Contact: Jennifer Rocci).

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

I. AESTHETICS. The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.

II. AGRICULTURE AND FOREST RESOURCES. The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.

III. AIR QUALITY.

Impact AIR-1: The proposed project could result in significant air quality impacts associated with fugitive dust during construction.

Mitigation Measure AIR-1: All plans for demolition, grading, and building permits, as well as all construction contracts shall include the following Best Management Practices recommended by the Bay Area Air Quality Management District (BAAQMD). These measures shall be implemented during all demolition, grading, and construction activities to reduce construction-related particulate emissions:

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 or covered.
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. Building pads shall be laid as soon as possible 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 explaining this rule 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 name of an individual working for the construction contractor who can be contacted 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.

Impact AQ-2: Construction toxic air contaminant (TAC) emissions would result in significant health risks and particulate matter ($PM_{2.5}$) concentrations at nearby sensitive receptors.

Mitigation Measure AQ-2.1: All diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

Mitigation Measure AQ-2.2: To ensure compliance with mitigation measures MM AQ-2.1, the project applicant shall submit to the 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. The plan shall be submitted for review and approval prior to issuance of a grading, demolition, and/or building permit.

IV. BIOLOGICAL RESOURCES.

Impact BIO-1: Removal of trees from the site and construction of future residential development could impact tree-nesting migratory birds on or adjacent to the project site.

Mitigation Measure BIO-1.1: A qualified biologist shall conduct protocol-level (i.e. following the California Department of Fish and Wildlife bird survey protocols), pre-construction surveys for migratory birds on-site and off-site prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (February 1st to August 31st). During the early part of the breeding season (February 1st to May 31st), pre-construction surveys shall be performed no more than 14 days prior to the start of ground disturbance, construction, or tree removal. During the latter part of the breeding season (June 1st to August 31st), pre-construction surveys shall be conducted no more than 30 days prior to the start of ground disturbance, construction or tree removal. All trees within 250 feet of the limits of grading shall be inspected as construction occurs on the project site. Pre-construction surveys are not required outside of the nesting season.

Mitigation Measure BIO-1.2: If a migratory bird or nest is detected during the pre-construction surveys or during construction, an appropriate construction buffer shall be established during the nesting season. Actual size of buffer will be determined by the biologist based on California Department of Fish and Wildlife (CDFW) protocol and will depend on species, topography, and type of construction activity that would occur in the vicinity of the nest.

Mitigation Measure BIO-1.3: A report summarizing results of the pre-construction survey and subsequent efforts to protect migratory birds (if found to be present) shall be submitted to the Supervising Planner of the City of San José Planning Department's Environmental Review Division prior to the start of construction activities.

Impact BIO-2: Construction of the project could damage any trees planned for preservation on or adjacent to the project site.

Mitigation Measure BIO-2.1: The following measures shall be included in notes on the approved plans for the Planned Development Permit, demolition permits, grading permits, and building permits to avoid construction-related impacts to trees to be preserved:

- No construction equipment, vehicles or materials shall be stored, parked, or left standing within the tree dripline; and
- Drains shall be installed according to city specifications so as to avoid harm to trees due to excess watering; and
- Wires, signs and other similar items shall not be attached to trees; and
- Cutting and filling around the base of trees shall be done only after consultation with the City Arborist and then only to the extent authorized by the City Arborist; and
- No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or into any grate between the dripline and the base of the tree or uphill from any tree where certain substances might reach the roots through a leaching process; and
- Barricades shall be constructed around the driplines of the trees as specified by a qualified arborist so as to prevent injury to trees making them susceptible to disease causing organisms. If ground disturbance or equipment access must occur within the dripline, the barricade shall be constructed as far from the trunk as feasible; and
- Wherever cuts are made in the ground near the roots of trees, appropriate measures as determined by the project consulting arborist, shall be taken to prevent exposed soil from drying out and causing damage to tree roots. (SJMC 13.32.130)
- Damage to any tree during construction shall be reported to the Director of Planning, Building, and Code Enforcement, and the contractor or owner shall treat the tree for damage in the manner specified by the City Arborist.

V. CULTURAL RESOURCES.

Impact CUL-1: Excavation and grading for the proposed project could impact known and unknown subsurface Native American human remains and prehistoric resources.

Mitigation Measure CUL-1.1: *Native American Consultation and Coordination:* All earthwork completed on the site, including any for the mitigation program detailed below, shall be conducted in consultation with Native American tribe representatives connected with the site.

Mitigation Measure CUL-1.2: *Treatment Plan:* Prior to approval of a Planned Development permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist. The Plan shall reflect permit-level detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement prior to approval of a Planned Development permit. The Treatment Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan).
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, consultation with Native Americans, etc.

Mitigation Measure CUL-1.3: *Investigation:* Prior to project grading and excavation, the project applicant shall complete a field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under mitigation MM CUL-1.2. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of a Planned Development permit based on the Cultural Resources Treatment Plan recommendations. The investigation program shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of a Planned Development permit. The investigation program shall include, but not be limited to, the following:

- North-south trench across the area of the positive trenches identified in the San Jose Unified School District Investigation in 1998.
- Exploratory trenching at locations of proposed ground disturbance in excess of five feet below ground surface.

Mitigation Measure CUL-1.4: *Evaluation and Data Recovery:* Any prehistoric material identified in the project area during the field investigation in mitigation MM CUL-1.3 shall be evaluated for eligibility for listing in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.

If a deposit is identified and determined to be a contributing portion of the National Register site SCL-690 and project impacts to the deposit cannot be avoided, then mitigation (i.e. data recovery) shall be

undertaken immediately. A comprehensive data recovery program may include salvaging artifacts, comprehensive research, and laboratory analyses. If human remains are identified, the Most Likely Descendent (identified in consultation with the Native American Heritage Commission) will determine the disposition of the remains if they cannot be avoided.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

Mitigation Measure CUL-1.5: *Human Remains:* Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures. In addition, the following measures shall be implemented with regard to human remains:

a) If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. The City of San José Director of Planning, Building, and Code Enforcement shall be notified along with the project's lead archaeologist. City personnel or the archaeologist shall contact the Santa Clara County Coroner immediately.

b) If the remains are believed to be Native American, the Coroner must contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC must then designate a Most Likely Descendant (MLD). The MLD will contact the City of San José Director of Planning, Building, and Code Enforcement, or a designated representative, within 24 hours of being notified, to inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. In the event human remains need to be left uncovered overnight, a guard shall be put on duty until the next working day, unless the designated Most Likely Descendant requests otherwise (e.g., that they be left unmarked or collected).

c) The project applicant shall explore all feasible options to redesign the project to avoid human remains. If this is not possible, alternative treatment scenarios should be considered, such as reburial of human remains in a secure place, as close as possible to the site. Initially, no photographs shall be taken of any human remains. They will be recorded, along with any grave-associated artifacts, and left in place until the designated Most Likely Descendant can make a decision on their reburial. Upon reburial, a GPS point shall be recorded at that location and identified on a Sacred Lands Form, which shall be submitted to the Native American Heritage Commission.

Mitigation Measure 1.6: *Safety and Site Security:* Historic industrial uses on the site used hazardous materials, including metals and petroleum products. Based on the initial evaluation of hazardous contamination conducted in 2015, there is no health threat to construction workers from exposure to on-site soils. Results of any additional site characterization conducted under a Voluntary Cleanup Program required under **MM HAZ-1.1** shall be reviewed by the project archaeologist for safety implications prior to archaeological ground investigations.

At the discretion of the qualified archaeologist responsible for the data recovery (i.e. the Field Director), site fencing shall be installed on-site during the investigation to avoid destruction and/or theft of archaeological material. A security guard shall also be hired during non-excavation hours to provide additional site security if any human remains are left exposed overnight. The responsible qualified archaeologist shall advise the Supervising Planner of the Planning, Building, and Code

Enforcement's Environmental Review Division as to the necessity for a guard. Final authority to determine the need for a guard rests with the Director of Planning, Building, and Code Enforcement.

Mitigation Measure 1.7: *Technical Reporting:* Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, a technical report summarizing the results of the field investigation and data recovery shall be prepared. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's *Standards for Archaeological Documentation.* The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the City of San José Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of Certificates of Occupancy. Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University.

Mitigation Measure 1.8: *Curation:* Upon completion of the final technical report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials shall be transferred to a long-term curation facility, such as the David A. Frederickson Archaeological Collections Facility at the Anthropological Studies Center, Sonoma State University. Any curation facility used shall meet the standards outlined in the National Park Services' *Curation of Federally Owned and Administered Archaeological Collections* (36 CFR 79).

Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

Mitigation Measure 1.9: *Construction Monitoring and Protection Measures:* Although the data recovery and treatment program is expected to recover all potentially significant materials and information from the areas impacted by the project, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g. grading and excavation) shall be completed under the observation of an archaeological monitor. In addition to monitoring uncovered soils for indications of archaeological materials, the monitor shall also ensure that no equipment use or earthwork occurs on top of the reburial area.

Protective fencing shall be placed around the reburial area for the duration of construction. Heavy diesel equipment shall not be used on the reburial area. Any work required over the reburial area must be conducted manually or with handheld equipment to the extent feasible. If ground disturbance above the reburial is necessary, it shall be conducted only in consultation with appropriate Native American representatives and a qualified archaeologist.

The archaeological monitor shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find or within the vicinity of the reburial area. If a monitor is not present but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified professional archaeologist has been contacted to determine the proper course of action. Any human remains encountered during construction shall be treated according to the protocol identified in **MM CUL-1.5**.

VI. GEOLOGY AND SOILS. The project will not have a significant impact due to geology and soils, therefore no mitigation is required.

VII. GREENHOUSE GAS EMISSIONS. The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Future residents of the project site could be exposed to elevated concentrations of cobalt and total petroleum hydrocarbons (TPH) in on-site soils as well as elevated concentrations of naphthalene in indoor air. Long-term exposure to these substances at the observed concentrations could pose potentially significant health risks to residents.

Mitigation Measure HAZ-1.1: If remediation is necessary, such work will be conducted through a Work Plan developed by the applicant and approved by the appropriate oversight agency. Any soil excavation activities shall be performed by a licensed hazardous materials contractor and personnel with training in hazardous waste operations (40-hour OSHA Training). If required, in-situ verification soil sampling shall be performed in the remedial excavations, should they be necessary, to confirm that the remaining in-place soil meets residential screening criteria. The excavated soil will be off-hauled for off-site disposal at an appropriate facility. Copies of the approved Work Plan shall be provided to the City of San José Public Works Department and Planning division prior to initiation of grading and excavation.

The applicant shall obtain the Certificate of Completion or No Further Action Letter and submit it to the City of San José Director of Planning, Building, and Code Enforcement prior to the issuance of Certificates of Occupancy.

Mitigation Measure HAZ-1.2: A Site Management Plan (SMP) shall be developed to establish management practices for handling contaminated soil or other materials encountered during construction activities. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures. The SMP shall be submitted to the City and the appropriate oversight agency for approval prior to commencing construction activities. The SMP shall include the following:

- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, PCBs, other contamination, etc.) is discovered during excavation or demolition activities;
- Traffic control during site improvements;
- Noise, work hours, and other relevant City regulations;
- Mitigation of soil vapors (if required);
- Procedures for proper disposal of contaminated materials (if required); and
- Monitoring, reporting, and regulatory oversight arrangements.

IX. HYDROLOGY AND WATER QUALITY. The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.

X. LAND USE AND PLANNING. The project will not have a significant land use impact, therefore no mitigation is required.

XI. MINERAL RESOURCES. The project will not have a significant impact on mineral resources, therefore no mitigation is required.

XII. NOISE.

Impact NOI-1: Construction of the proposed project would last more than 12 months and would occur in the vicinity of sensitive residential land uses. Therefore, construction of the project would result in significant noise impacts to surrounding land uses.

Mitigation NOI-1.1: Per Policy EC-1.7 of the City's General Plan, the project applicant shall prepare 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. Measures from this plan shall be included on all approved grading and building permit plans. The construction noise logistics plan shall be reviewed and approved by the Supervising Planner of the Environmental Review Division of the Department of Planning, Building, and Code Enforcement prior to issuance of a grading permit. Measures to be included in the plan shall include, but not be limited to:

a) Notifying the neighborhood of the construction activities and construction schedule (including estimated dates of various construction phases) at least one week and no more than three weeks prior to the start of construction.
b) Prohibit unnecessary idling of internal combustion engines. Equipment shall be shut off when not in use and the maximum idling time shall be limited to five minutes (consistent with MM AQ-2.1).
c) In order to minimize construction noise impacts, best available noise control practices and equipment (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) shall be used for all heavy earthmoving equipment, impact tools, compressors, engine generators, and diesel-fueled trucks. A letter from a qualified acoustic specialist shall be attached to the plan along with a list of proposed construction equipment, certifying that the proposed construction equipment includes the best available noise attenuating technologies.
d) If impact equipment (e.g., jack hammers, pavement breakers, or rock drills) is needed during construction, hydraulically or electric-powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used. External jackets on the tools themselves shall also be used if available and feasible.
e) Locate equipment at the work area to maximize the distance to noise-sensitive receptors and to take advantage of any shielding that may be provided by other on-site equipment.
f) Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

Mitigation NOI-1.2: Construction shall be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Any request for construction outside of these hours shall be approved through a Planned Development Permit Amendment based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Mitigation NOI-1.3: Permitted work activities outside of specified construction hours shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors, and idling trucks are not permitted. The project applicant shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of the project applicant's appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, Building, and Code Enforcement, at his/her discretion, may rescind provisions to allow extended hours of construction activities on weekends only upon written notice to the developer.

Mitigation NOI-1.4: Stationary noise generating equipment shall be located as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

XIII. POPULATION AND HOUSING. The project will not have a significant population and housing impact, therefore no mitigation is required.

XIV. PUBLIC SERVICES. The project will not have a significant impact on public services, therefore no mitigation is required.

XV. RECREATION. The project will not have a significant impact on recreation, therefore no mitigation is required.

XVI. TRANSPORTATION / TRAFFIC. The project will not have a significant traffic impact, therefore no mitigation is required.

XVII. UTILITIES AND SERVICE SYSTEMS. The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. With the implementation of the mitigation measures listed above, the project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **April 25, 2016,** any person may:

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

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

Harry Freitas, Director
Planning, Building and Code Enforcement

Meenaxi R. P.
Deputy

Circulation period, from **March 25, 2016** to **April 25, 2016**.

Initial Study

Tamien Station Transit-Oriented Development Rezoning

File # PDC14-072

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

March 2016

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APPENDICES

SECTION 1.0 INTRODUCTION AND PURPOSE

This Initial Study has been prepared by the City of San José 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 Initial Study (IS) is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

The City of San José is the Lead Agency under CEQA and has prepared this IS to evaluate the environmental impacts that would result from rezoning the 6.96-acre parcel east of and adjacent to Tamien Station from *Light Industrial* to *Planned Development*. The proposed *Planned Development* zoning would accommodate up to 440 residential units with associated parking and approximately 3,000 square feet of general retail that would serve future residents and transit users. To the extent that the environmental impacts of implementing this rezoning project can be determined based on the anticipated design of a future transit-oriented project, they will be. Subsequent environmental review may be necessary, however, once an application for a Planned Development permit is submitted with specific details regarding the design of buildings, landscaping, and infrastructure.

This IS and all documents referenced in it are available for public review at the San José Department of Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3rd Floor, San José, CA, 95113, during normal business hours.

Tiering of the Environmental Review

In 2011, the City of San José approved the *Envision San José 2040 General Plan*, which is a long-range program for the future growth of the City. In accordance with CEQA Section 21093 and CEQA Guidelines Section 15152, this IS will tier from the Envision San José 2040 General Plan Final Program Environmental Impact Report (General Plan FPEIR) where appropriate. The General Plan FPEIR was a broad range analysis of planned growth and did not analyze specific development projects. The intent was for the General Plan FPEIR to be a program-level document from which subsequent development consistent with the General Plan could tier.

In 2015, a Supplemental FPEIR to the General Plan FPEIR was prepared by the City of San José to provide additional information to decision-makers prior to re-adoption of the City of San José's Greenhouse Gas Reduction Strategy as part of the General Plan. The greenhouse gas emissions analysis in this IS will tier from the certified General Plan Supplemental FPEIR.

The CEQA Guidelines contain the following information on tiering an environmental document:

> **§15152 – Tiering.** (a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later projects.
>
> (b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the

later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequences of analysis is from an EIR prepared for a general plan, policy or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Tamien Station Transit-Oriented Development Rezoning (PDC14-072)

2.2 PROJECT LOCATION

The 6.96-acre project site is located approximately 500 feet north of West Alma Avenue between the Tamien Station and Lick Avenue in the City of San José. Refer to Figures 2.2-1, 2.2-2, and 2.2-3 for the location of the project site.

2.3 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street, tower - third floor
San José, CA 95113-1905
David Keyon, Planner
Email: david.keyon@sanjoseca.gov
Phone: (408) 535-7898

2.4 PROPERTY OWNER/PROJECT APPLICANT

Santa Clara Valley Transportation Authority
3331 N. First Street
San José, CA 95134

Jennifer Rocci
VTA Real Estate
Email: Jennifer.Rocci@vta.org
Phone: (408) 321-5950

2.5 ASSESSOR'S PARCEL NUMBERS

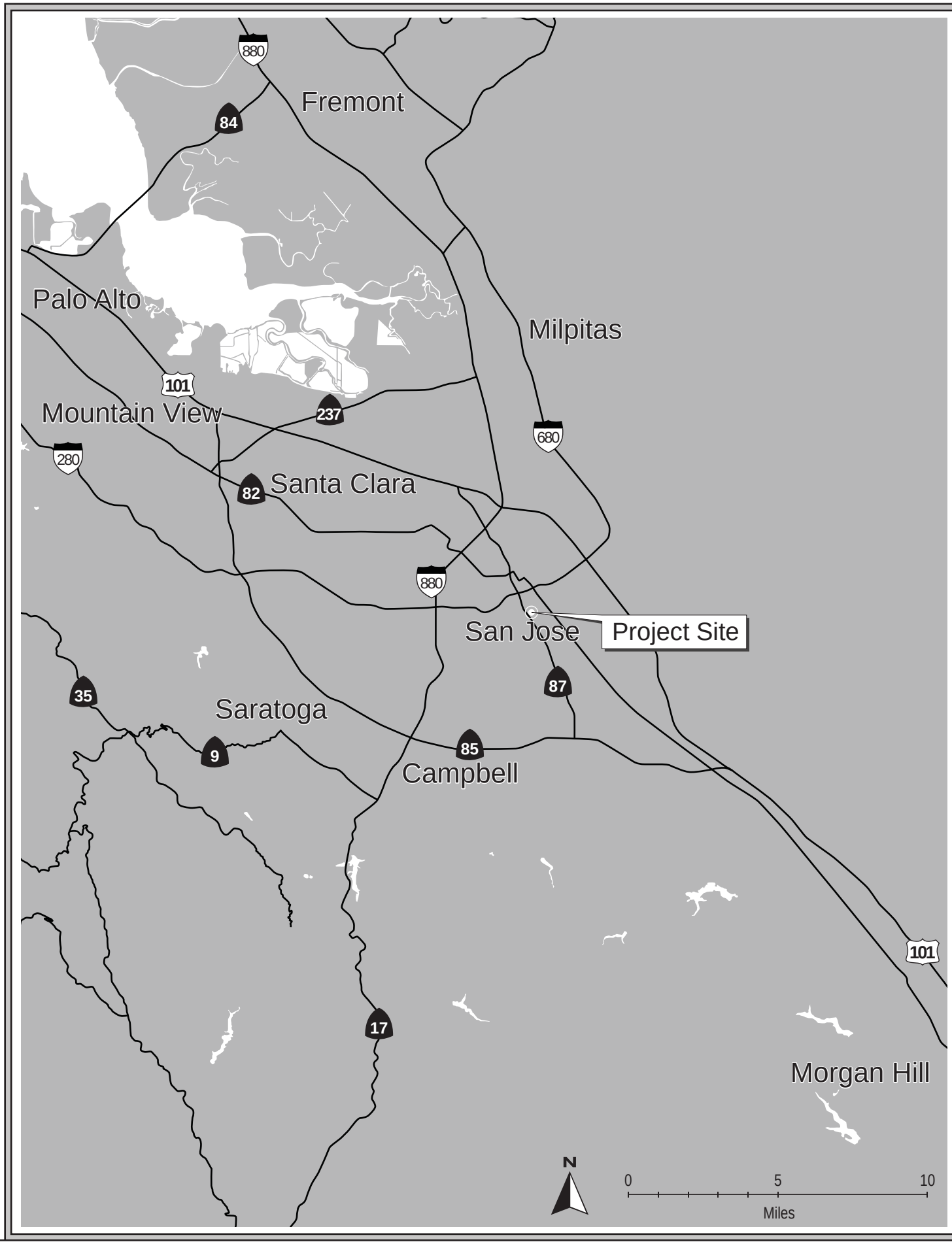
434-13-040

2.6 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

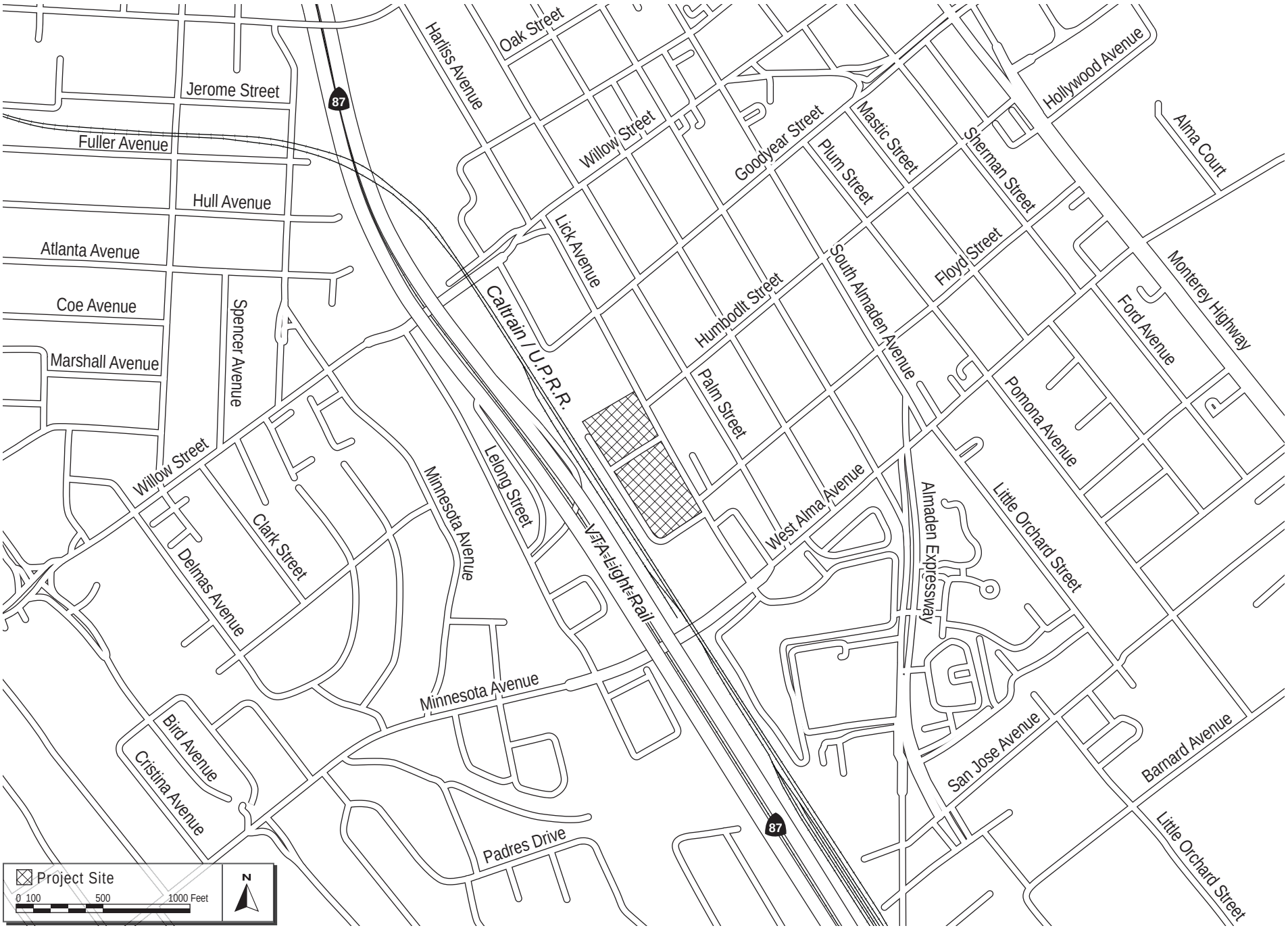
General Plan Designation: *Urban Residential*
Zoning Designation: *LI - Light Industrial*

2.7 SANTA CLARA VALLEY HABITAT PLAN DESIGNATIONS

Private Development Areas:	*Urban Development Equal to or Greater Than Two Acres Covered*
Land Cover:	*Urban – Suburban* *Golf Courses / Urban Parks*
Land Cover Fee Zones:	*Urban Areas (No Land Cover Fee)* *Fee Zone C (Small Vacant Sites Under 10 Acres)*



REGIONAL MAP FIGURE 2.2-1



VICINITY MAP

FIGURE 2.2-2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 2.2-3

SECTION 3.0 PROJECT DESCRIPTION

The 6.96-acre project site is located approximately 500 feet north of West Alma Avenue between the Tamien Transit Station and Lick Avenue in the City of San José (APN 434-13-040). Existing development on the site consists of an approximately 9,600 square foot child care center and a 369-stall surface parking lot that serves both the child care center and Tamien Station (59 stalls are reserved for the child care center). Tamien Station serves as a stop for both the regional Caltrain system and the Santa Clara Valley Transportation Authority (VTA) light rail and bus system.

The project site is located within a developed area of central San José where transportation infrastructure is highly prominent. The light rail tracks extend down the middle of the median of State Route 87, a freeway elevated over the adjacent neighborhood on fill slopes. Land north of the site is currently vacant and undeveloped and is used as spillover parking for transit riders.

Development across Lick Avenue is a mixture of older and modern residential and commercial/light industrial buildings. The modern residential buildings are generally two-story, stucco and wood clad structures. Older, wood clad single family residential buildings are interspersed with the more densely developed multiple-family and senior residential developments. The commercial/light industrial buildings in the area are a mix of styles and include buildings clad with corrugated metal. A 10-11 story concrete and glass residential building south of the site is highly visible from the transportation corridors in the area.

3.1 PROPOSED REZONING

The proposed project is a rezoning of the site from *LI - Light Industrial* to *(A)PD – Planned Development*. The rezoning is ultimately intended to accommodate the development of between 390-440 residential units with associated structured parking and up to 3,000 square feet of general retail uses serving future residents of the development, the neighborhood, and users of the Tamien light rail and Caltrain station.

3.1.1 General Development Plan

3.1.1.1 *Residential Areas*

The proposed rezoning would allow for the construction of two multi-family residential buildings on the site. As shown in Figure 3.1-1, the proposed density of parcel L-2 would be between 83-91 dwelling units per acre with up to 3,000 square feet of general retail uses. The development anticipated for this portion of the site would be a five-story building with between 290 and 320 multi-family dwelling units. This structure is anticipated to have dwelling units that wrap around an internal parking structure.

Parcel L-1 encompasses 1.62-acres of the northern portion of the site. The proposed density on Parcel L-1 would be 62-74 dwelling units per acre with no commercial retail space included. Future development on this portion of the site is anticipated to contain between 100-120 multi-family dwelling units in a building up to five stories tall. To accommodate the proposed densities, it is anticipated that these residential units would be constructed over a podium with one level of parking.

3.1.1.2 *Protected Area*

A known Native American reburial[1] area occupies a portion of the project site. Due to the highly-sensitive nature of reburials, the location and details of this site will not be discussed in great detail in this environmental document. The proposed project is designed to avoid modifications to the reburial site and, with the exception of landscaping, no earthwork would be allowed through this area or in proximity to it. A minimum 10 foot setback will be maintained for all ground disturbing activities in the vicinity of the protected area. The sensitive area would be landscaped and people would be allowed to traverse it, but no structures or utilities would be constructed on it.

3.1.1.3 *Public Improvements*

Based on the recommendations of the project's traffic analysis (see ***Section 4.16, Transportation***), the proposed project includes extension of the existing left-turn lane on northbound Almaden Avenue at its intersection with Alma Avenue. The left-turn pocket could be extended by up to 225 additional feet to accommodate longer vehicle queues. The extension will require removal of portions of the existing median and the trees planted in it.

3.1.2 Development Standards

Site development standards in the proposed *PD* zoning would include minimum building setbacks of 15 feet from public streets (i.e. Lick Avenue), 10 feet from the property line and protected area, and eight feet from the proposed private road.[2] Building heights would not exceed 65 feet above grade.

[1] A Native America reburial is a location where human remains of prehistoric Native Americans are reburied after removal from their original burial place, in this case as a result of previous site development.
[2] Setbacks are measured from the back of walk.

PROPOSED LAND USE TABLE

LOTS	PROPOSED LAND USE	PERMITTED USES	APPROX. ACRES	ESTIMATED UNIT RANGE	DENSITY/ACRE	COMMERCIAL SQUARE FOOTAGE
L-1	HIGH DENSITY RESIDENTIAL	RESIDENTIAL: CONDOS/ APARTMENTS	+/- 1.62 AC	100-120	62-74 DU/AC	N/A
L-2	HIGH DENSITY RESIDENTIAL	RESIDENTIAL: CONDOS/ APARTMENTS, COMMERCIAL	+/- 3.5 AC	290-320	83-91 DU/AC	0-3,000 sf
L-3	PRIVATE ROAD	PRIVATE ROAD	+/- 1.5 AC	N/A	N/A	N/A
L-4	PRIVATE OPEN SPACE	PASSIVE USE	+/- .34 AC	N/A	N/A	N/A

PROPOSED GENERAL DEVELOPMENT PLAN

FIGURE 3.1-1

3.1.3 Access, Circulation, and Parking

Access to the project site would be provided by a private loop road with two points of ingress and egress on Lick Avenue. The road would include two 13-foot wide travel lanes, five- to seven-foot wide sidewalks, and 19-foot wide angled parking spaces. As shown on Figure 3.1-1, the private road right-of-way would be approximately 45 feet wide adjacent to the Tamien Station entrance in order to provide space for pick-up and drop-off. Other modifications associated with the private road include sidewalk bulb-outs at the two driveways on Lick Avenue, as well as reconstructed sidewalks along the project's frontage. The private road would cover approximately 1.5 acres of the site and an easement would be provided along it to allow access to designated drop-off points for Tamien Station.

The majority of parking for the proposed uses would be structured parking; either podium parking under the residential dwelling units and/or a parking structure with up to five levels that will be surrounded by the proposed residential structure. Parking spaces on the site would be consistent with the proposed parking ratios listed in Table 3.1-1 below. It is anticipated that parking on the southern portion of the site would be provided in a structure up to five stories in height. Parking for the podium units on the northern portion of the site may be provided in a garage with one level partially below grade. The final amount of parking would be determined at the PD permit application stage.

Table 3.1-1 Proposed Parking Ratios

L-1 (62-74 du/ac)	
One Bedroom Units	1.00 stalls/unit
Two Bedroom Units	1.30 stalls/unit
Three Bedroom Units	1.50 stalls/unit
L-2 (83-91 du/ac)	
Studio and One-Bedroom Units	1.25 stalls/unit
Two Bedroom Units	1.70 stalls/unit

The project site is located in a transit priority area.[3] Parking is described in this analysis and discussed in relation to the City of San José's parking standards, however, CEQA §21099(d)(1) states that parking impacts of mixed-use residential project on an infill site within a transit priority area shall not be considered significant impacts on the environment.

3.1.4 Landscaping and Trees

There are approximately 147 trees on the project site, eight of which are over 56 inches in circumference and are protected by the City of San José tree ordinance (Municipal Code Section 13.32.010 to 13.32.150). There are an additional 17 trees in the median of Almaden Avenue that could be removed to accommodate the extension of the left-turn pocket on Almaden Avenue (see *Section 3.1.1.3* above). It is likely that construction of the proposed project would require removal of most of the trees on the site. The final landscaping and tree planting plan would be determined at the PD permit application stage of the project.

[3] A transit priority area is defined as an area within one-half mile of a major transit stop that is existing or planned. (CEQA §21099).

3.1.5 Prerequisite for Project Construction

In December 2014, VTA approved construction of a four- or five-level parking structure that would provide approximately 700 to 900 parking spaces on the existing surface parking lot west of the site across SR 87. That development was the subject of an Initial Study/Mitigated Negative Declaration prepared in compliance with CEQA in December 2014.[4] Because development on the proposed project would result in the loss of 310 stalls of existing transit parking adjacent to the Tamien Station, construction of the proposed project would not begin until the parking structure is completed and replacement parking for Tamien Station is available. This would be a condition of approval of a site development permit for the project site.

At this time, VTA anticipates completing construction of the parking structure at the end of 2017, and completing the currently proposed project in 2018.

3.1.6 Permits and Approvals

The project will require the following permits and approvals from the City of San José:

- *Planned Development* rezoning
- Planned Development Permit(s)
- Encroachment Permit
- Grading Permits
- Building and Electrical Permits
- Santa Clara Valley Habitat Plan Clearance

[4] Santa Clara Valley Transportation Authority. *Final Initial Study/Mitigated Negative Declaration, Tamien Station Parking Structure Project.* December 2014. Available at: http://www.vta.org/projects-and-programs/planning/tamien-station-projects

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACTS

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

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. "Mitigation Measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines §15370). Measures that are proposed by the applicant that will further reduce or avoid already less than significant impacts are categorized as "Avoidance Measures." Measures which are required by the City of San José as normal requirements for a project are identified as "Standard Project Conditions." Conditions required for issuance of a development permit for the project are identified as "Permit Conditions."

In December 2015, the California Supreme Court published an opinion [*California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 (No. S 213478)*] which confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects of the existing environment 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 has policies that address existing conditions affecting a proposed project (e.g., noise), which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., an 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 will discuss "planning considerations" that relate to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 *Project Site*

The project site is currently developed with a one-story child care center, a surface parking lot, and a loop road that provides access to these facilities and the adjacent Tamien Station. The project site also includes part of the undeveloped land on the northern portion of the site, which currently contains additional spillover parking for the station and a staging area.

Landscape trees planted along the Lick Avenue frontage and the loop road serve as the primary visual resources on the site. There is minimal landscaping within the surface parking lot, which gives the site a predominantly urban character. Panoramic views of the project site are shown in Figure 4.1-1 below.

4.1.1.2 *Surrounding Environment*

The project site is located within a developed area of central San José where transportation infrastructure is highly prominent. It is located adjacent to the Tamien Station, which serves as a stop for both the regional Caltrain system and the Santa Clara Valley Transportation Authority (VTA) light rail and bus system. The light rail tracks extend down the middle of the median of State Route 87, a freeway elevated over the adjacent neighborhood on fill slopes. Land north of the site is currently vacant and undeveloped and is used as spillover parking for transit riders. Development across Lick Avenue is a mixture of older and modern residential and commercial/light industrial buildings. The modern residential buildings are generally two-story, stucco and wood clad structures. Older, wood clad single family residential buildings are interspersed with the more densely developed multiple-family and senior residential developments. The commercial/light industrial buildings in the area are a mix of styles and include buildings clad with corrugated metal. A 10-11 story concrete and glass residential building south of the site is highly visible from the transportation corridors in the area. Photos of the buildings across Lick Avenue are shown below.

Photo 4.1-1 Land Uses on Lick Avenue East of the Project Site

Photo 4.1-2 10-11 Story Apartment Building South of the Project Site

Scenic Vistas and Resources

The project site is not located along a state-designated scenic highway. Views of the Diablo Range foothills (to the east) and the Santa Cruz Mountains to the west are limited due to existing urban development and the SR 87 roadway.

The City's General Plan identifies Gateways and Urban Throughways (urban corridors) where preservation and enhancement of views of the natural and man-made environment are crucial. New development adjacent to Gateways and designated freeways should consist of high-quality architecture and contribute to a positive image of San Jose. The nearest Gateway to the project site are located on S. First Street, north and south of Interstate 280 (approximately one-half mile northeast of the site). The City has designated SR 87 as an Urban Throughway from the U.S. 101 to SR 85 in South San Jose.

Due to the site's flat topography and surrounding development, current views of the project site are limited to the site's immediate vicinity and along short segments of SR 87 and the Caltrain and Light Rail tracks.

4.1.1.3 *Applicable Plans, Policies, and Regulations*

State Scenic Highways Program

The State Scenic Highways Program was created by the California State Legislature in 1963 and is under the jurisdiction of the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The state laws governing the Scenic Highway Program are found in the Streets and Highway Code, Sections 260 through 263. There are no designated scenic highways in the vicinity of the project site and the project site is not visible from a designated scenic highway.

City of San José Design Guidelines and Design Review Process

All new development is subject to a design review process that includes a review of architecture and site planning. Design review is based upon a series of guidelines prepared by the City's Planning Division and adopted by the City Council. The project plans will also be reviewed by the Architectural Review Committee, which consists of a review of the project design by three independent professional architects.

City of San José Lighting Policy

The City of San José Outdoor Lighting Policy (Council Policy 4-3) promotes energy efficient lighting while minimizing light pollution and sky glow. The policy requires Low-Pressure Sodium lighting for outdoor unroofed areas. In April 2011, the policy was amended to allow projects that can demonstrate improved energy efficiency and consistency with the City's public streetlight policy to

substitute LED lighting for Low-Pressure Sodium lighting.[5] In August 2011, the City of San José issued interim standards for lighting on private developments.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies specific to visual character and scenic resources are 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-1.8: 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-1.13: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

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

Policy CD-1.23: 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-1.27: When approving new construction, require the undergrounding of distribution utility lines serving the development. Encourage programs for undergrounding existing overhead

[5] City of San José. *City of San Jose Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development.* April 25, 2011. Memorandum. Available at: http://www.sanjoseca.gov/DocumentCenter/Home/View/361

distribution lines. Overhead lines providing electrical power to light rail transit vehicles and high tension electrical transmission lines are exempt from this policy.

Policy CD-10.2: Require that new public and private development adjacent to Gateways, freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87), and Grand Boulevards consist of high-quality architecture, use high-quality materials, and contribute to a positive image of San José.

Policy CD-10.3: Require that development visible from freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

PANORAMIC VIEWS OF THE PROJECT AREA

FIGURE 4.1-1

4.1.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐	1 – 3
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☒	☐	1 – 3
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐	1 – 3
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☒	☐	1 – 3

4.1.2.1 *Impacts to Visual Character*

The proposed *PD – Planned Development* rezoning would allow construction of two buildings containing 390-440 residential units with associated structured parking, and up to 3,000 square feet of general retail space. Maximum building heights would be 65 feet above grade, 15 feet more than allowed under the current *LI* zoning. Compared to the current surface parking lot and single-story child care center, the two proposed 4-5 story buildings and parking structure would create a distinct change in the intensity of development on the site. Though the buildings would be more noticeable in the surrounding environment, they would be approximately half the height of the 10 – 11 story residential building south of the site (refer to Photo 4.1-2).

The project area is highly urbanized and developed, and contains a mix of architectural styles with no particular design aesthetic being dominant. Because there is no predominant architectural style in the project area, the proposed buildings would be compatible with the mixed visual character of the area. The proposed project site is located within a mixed urban development area in San José and any new construction on the site would be visible from surrounding roadways and properties.

The General Plan FPEIR found that new development and redevelopment consistent with the General Plan would alter the appearance of the City; however, implementation of adopted policies and existing regulations, including the City's Design Guidelines, would ensure that such development would not result in a significant degradation of visual character or quality in the City. Future development would be subject to Design Review and must be found consistent with applicable General Plan policies. Therefore, the proposed project would have a less than significant impact on the visual character of the City and surrounding community. **(Less Than Significant Impact)**

4.1.2.2 *Impacts to Scenic Vistas and Resources*

The General Plan FPEIR defines scenic vistas in the City as views of the Santa Clara Valley and the surrounding hillsides. There are no scenic vistas available from the project site or from the adjacent Lick Avenue. Highway 87 is not considered a state scenic highway.[6]

The 147 landscape trees on the site soften views of the existing parking area, Tamien Station, and child care center. All of the trees could be removed to accommodate new development allowed under the proposed zoning. Future development would include street and on-site tree planting and landscaping consistent with City of San José requirements, which would mitigate the local visual impact of the loss of on-site trees. Tree preservation measures have been incorporated into the PD zoning conditions to protect any trees that can be retained, which will reduce the potential for unnecessary loss of trees as a result of the project. None of the on-site trees are native to the City of San José and none are designated Heritage trees. With implementation of the City's standard tree replacement conditions and preservation measures identified in ***Section 4.4 Biological Resources***, the proposed project would have a less than significant impact on scenic resources. **(Less Than Significant Impact)**

4.1.2.3 *Light and Glare*

Lighting from future residential development would likely include outdoor security lighting on the site, along driveways, entrance areas, and within the parking garage. Lighting on the site, relative to the existing surface parking lot lighting, would provide a comparable level of illumination in the area. Building materials would be reviewed by the City for compliance with applicable General Plan policies and other regulations to reduce and/or avoid daytime glare impacts.

Lighting would be required to be consistent with the City's design guidelines and Outdoor Lighting Policy. Before the project can receive approval of a Planned Development permit, the proponent would be required to submit an Outdoor Lighting Plan to the City. The Plan would be reviewed for consistency with the Outdoor Lighting Policy. Together with the review of building materials for possible glare impacts, this review of a project-specific Outdoor Lighting Plan would avoid potentially significant light and glare impacts from the project. **(Less Than Significant Impact)**

4.1.3 Conclusion

The proposed project would result in intensification on a developed site within the urban envelope of the City of San José. Residential development allowed under the proposed rezoning would be about 15 feet taller than allowed under the current *LI* zoning. While taller, the project would not substantially alter or degrade views of the built environment or scenic hillsides from City designated Gateways or Urban Thoroughfares. Mandatory design and lighting review and conformance with City design guidelines and policies would avoid light and glare impacts from future development. **(Less Than Significant Impact)**

[6] California Department of Transportation. *Eligible (E) and Officially Designated (OD) Routes.* Last Updated December 19, 2013. Accessed June 5, 2015. Available at: http://www.dot.ca.gov/hq/LandArch/scenic/cahisys.htm

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The project site is currently developed with a child care center and parking lot. There are no agricultural or forest resources on the site or in the surrounding environment. The site is designated *Urban and Built-Up Land* in the Santa Clara County Important Farmland Map, which means the site is occupied by structures with a building density of at least one unit to 1.5 acres, or approximately six structures to a 10-acre parcel.[7] There are no Williamson Act contracts or open space easements on the project site.[8]

4.2.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	4
2. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	5
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	3
4. Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1

[7] California Department of Conservation. *Santa Clara County Important Farmland 2012*. Map. August 2014. Available at: ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/scl12.pdf

[8] County of Santa Clara. *Williamson Act Properties.* Accessed May 5, 2015. Available at: http://www.sccgov.org/sites/planning/PlansPrograms/Williamson/Pages/WA.aspx

4.2.2.1 *Impacts to Agricultural and Forest Resources*

Rezoning the project site would not result in the direct or indirect loss of agricultural or forest land. The site is not considered Prime Farmland and is not the subject of a Williamson Act contract. **(No Impact)**

4.2.3 Conclusion

Redevelopment of the project site would have no impact on agricultural or forest resources. **(No Impact)**

4.3 AIR QUALITY

The following discussion is based in part on a Toxic Air Contaminant and Greenhouse Gas Emissions Assessment prepared by *Illingworth & Rodkin, Inc.* in March 2016. A copy of this report is included as Appendix A in this Initial Study.

4.3.1 Setting

4.3.1.1 *Climate and Topography*

The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Basin. The project area's proximity to both the Pacific Ocean and the San Francisco Bay has a moderating influence on the climate. This portion of the Santa Clara Valley is bounded to the north by the San Francisco Bay, the Santa Cruz Mountains to the southwest, and the Diablo Range to the east. The surrounding terrain greatly influences winds in the valley, resulting in a prevailing wind that follows along the valley's northwest-southwest axis.

4.3.1.2 *Regional and Local Criteria Pollutants*

Major criteria pollutants, listed in "criteria" documents written by the U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB), include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and suspended particulate matter (PM). Exposure to these pollutants can cause health problems, especially for children, the elderly, and people with heart or lung problems. Healthy adults may experience symptoms during periods of intense exercise. Pollutants can also cause damage to vegetation, animals, and property.

Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and $PM_{2.5}$, and state standards for PM_{10}.[9] The area is considered in attainment or unclassified for all other pollutants.

4.3.1.3 *Local Community Risks/Toxic Air Contaminants and Fine Particulate Matter*

In addition to criteria air pollutants, there is another group of substances found in ambient air referred to as toxic air contaminants (TACs). These pollutants tend to be localized and are found in relatively low concentrations in ambient air. However, long-term exposure can result in adverse chronic health effects.

Fine particulate matter ($PM_{2.5}$) is a complex mixture of substances that includes elements such as carbon and metals; compounds such as nitrates, organics, and sulfates; and complex mixtures such as diesel exhaust and wood smoke. Long-term and short-term exposure to $PM_{2.5}$ can cause a wide range of health effects.

[9] Bay Area Air Quality Management District. *Ambient Air Quality Standards and Attainment Status.* Last Updated May 28, 2015. Accessed September 17, 2015. Available at: http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status

Common stationary sources of TACs and $PM_{2.5}$ include gasoline stations, dry cleaners, and diesel backup generators which are subject to permit requirements. The other, often more significant, source is motor vehicles on freeways and roads.

4.3.1.4 *Sensitive Receptors*

The Bay Area Air Quality Management District (BAAQMD) defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medical clinics. For cancer risk assessments, children are the most sensitive receptors since they are more susceptible to cancer-causing TACs. The project's health risk assessment is based on child exposures because their exposure is considered to be the maximum impact scenario. Existing sensitive receptors near the project site include the multi-family residential units and the senior housing across Lick Avenue east of the site.

4.3.1.5 *Odors*

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. The project site is not located near any sources of odor. Multiple site visits have confirmed that there are no persistent, noticeable odors affecting the project site.

4.3.1.6 *Applicable Plans, Policies, and Regulations*

Federal, State, and Regional

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 USEPA is responsible for overseeing implementation of the Federal Clean Air Act and its subsequent amendments. The CARB is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

The City of San José falls within the jurisdiction of BAAQMD, the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. The BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and state air quality laws and regulations.

The BAAQMD prepared and adopted the Bay Area 2010 Clean Air Plan (CAP). This CAP updates the most recent ozone plan, the 2005 Ozone Strategy. Unlike previous Bay Area CAPs, the 2010 CAP is a multi-pollutant air quality plan addressing four categories of air pollutants:

- Ground-level ozone and the key ozone precursor pollutants (reactive organic gases and nitrogen oxide), as required by State law;
- Particulate matter, primarily $PM_{2.5}$, as well as the precursors to secondary $PM_{2.5}$;
- TACs; and
- Greenhouse gases.

California Office of Environmental Health Hazard Assessment

The California Office of Environmental Health Hazard Assessment (OEHHA) was created to protect and enhance public health and the environment by scientific evaluation of risks posed by hazardous substances. In March 2015, OEHHA updated the guidelines for evaluating cancer risks from air pollution. This update includes specific breathing rates and exposure periods for various age groups of sensitive receptors (refer to Appendix A for further detail). OEHHA provides the information that local air districts use to develop their risk management policy.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies specific to air quality are 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 design or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Policy MS-11.5: Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

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

Policy MS-13.3: 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.

4.3.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1, 7
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	1, 6, 8
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	1, 6, 8
4. Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	6, 8
5. Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	1

4.3.2.1 *Project-Level Significance Thresholds*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for 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 and other jurisdictions in the San Francisco Bay Area Air Basin often utilize the thresholds and methodology for assessing air emissions and/or health effects adopted by the BAAQMD. The BAAQMD methods are based upon the scientific and other factual data prepared by BAAQMD in developing those thresholds.

The City has carefully considered the thresholds prepared in May 2011 and considers these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Evidence supporting these thresholds has been presented in the following documents:

- BAAQMD. *CEQA Air Quality Guidelines*. Updated May 2011.
- BAAQMD. *Revised Draft Options and Justification Report California Environmental Quality Act Thresholds of Significance.* October 2009.

- California Air Pollution Control Officers Association. *Health Risk Assessments for Proposed Land Use Projects*. July 2009.
- California Environmental Protection Agency, California Air Resources Board. *Air Quality and Land Use Handbook: A Community Health Perspective.* 2005.

The analysis in this Initial Study is based upon the general methodologies in the most recent BAAQMD CEQA Air Quality Guidelines (dated May 2012) and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2011 BAAQMD CEQA Air Quality Guidelines, as shown in Table 4.3-1.

Table 4.3-1 Air Quality Thresholds of Significance

Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Annual Average Emissions (tons/year)
Criteria Air Pollutants			
ROG	54	54	10
NO_x	54	54	10
PM_{10}	82	82	15
$PM_{2.5}$	54	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or other Best Management Practices	Not Applicable	
Community Risks and Hazards for New Sources			
Excess Cancer Risk	Greater than 10.0 per one million or greater		
Chronic or Acute Hazard Index	Greater than 1.0 or greater		
Incremental annual average $PM_{2.5}$	Greater than 0.3 µg/m^3 or greater		
Community Risks and Hazards for Sensitive Receptors (Cumulative from all sources within 1,000 foot zone of influence) and Cumulative Thresholds for New Sources			
Excess Cancer Risk	Greater than 100 per one million or greater		
Chronic Hazard Index	Greater than 10.0 or greater		
Annual Average $PM_{2.5}$	Greater than 0.8 µg/m^3 or greater		
Greenhouse Gas Emissions			
GHG Annual Emissions	Compliance with a Qualified GHG Reduction Strategy OR 1,100 metric tons or 4.6 metric tons per capita		

Note: ROG = reactive organic gases, NOx = nitrogen oxides, PM_{10} = course particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, $PM_{2.5}$ = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; and GHG = greenhouse gas.

4.3.2.2 *Bay Area 2010 Clean Air Plan Consistency*

Determining consistency with the 2010 CAP involves assessing whether applicable control measures contained in the 2010 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures, and Energy and Climate Measures. Applicable control measures and the project's consistency with them are summarized in Table 4.3-2. The project supports the primary goals of the 2010 CAP in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development that provides users of the site with access to transit services. The proposed project is also consistent with the following control measures.

Table 4.3-2 Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The proposed project would provide bicycle facilities on the site consistent with Title 20 of the City of San José Municipal Code.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The General Development Plan is designed to be pedestrian-oriented and to enhance the pedestrian entrance to Tamien Station from Lick Avenue.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The project proposes mixed-use development with high density residential adjacent to a regional transit station. Based on the multi-modal transportation options available to future residents, the project is consistent with this control measure.
Parking Pricing and Management Strategies	Promote policies to implement market-rate pricing of parking facilities, reduce parking requirements for new development projects, parking "cash-out", unbundling of parking in residential and commercial leases, shared parking at mixed-use facilities, etc.	Project-specific parking ratios would be set by the proposed PD zoning, as detailed in Table 3.1-1 of the project description. The proposed parking ratios are at or below the code requirements for multi-family dwellings.

Table 4.3-2 Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The future development will comply with the latest California Building Code and will be required to comply with the City's Green Building Ordinance. Specific measures would be determined at the time of a future site development permit application.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	Use of cool roofing or paving techniques would be determined at the site development permit application stage. Future development would retain landscape trees to the extent feasible, and, consistent with City of San José policy, would plant new trees on the site as replacement for trees removed.
Tree-Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	The future development allowed under the proposed rezoning would plant trees on the project site consistent with the City of San José tree planting and replacement requirements. The final determination of size, species, and number of trees to be planted would be determined at the site development permit application stage.

The project includes transportation and energy control measures and is consistent with the overall goals of the 2010 CAP. The proposed project by itself, therefore, would not conflict with or impede implementation of the Bay Area 2010 CAP. **(Less Than Significant Impact)**

4.3.2.3 *Operational Long-term Regional and Local Air Quality Impacts*

Criteria Pollutants

The BAAQMD *CEQA Air Quality Guidelines* (2011) contain a screening criteria of 494 mid-rise apartment dwelling units for operation-related impacts from emissions of criteria pollutants and their precursors (e.g., NO_x, ROG, particulate matter). The screening criteria provide lead agencies with a conservative indication of whether a project could result in significant air quality impacts by exceeding the significance thresholds for criteria pollutants and their precursors shown in Table 4.3-1 (54 lbs. per day for ROG, NO_x, or $PM_{2.5}$ and 82 lbs. per day of PM_{10}). The City of San José considers the BAAQMD 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 $PM_{2.5}$. Scientific information supporting the thresholds was documented in BAAQMD's proposed thresholds of significance analysis.[10] Therefore, the City considers the thresholds to be supported by substantial evidence.

[10] BAAQMD. *California Environmental Quality Act Guidelines Update Proposed Thresholds of Significance.* December 2009. Available at: http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines

The proposed rezoning would allow a maximum density of 91 dwelling units per acre (du/ac) on 3.5 acres of the site and a maximum of 74 du/ac on 1.6 acres. In total, the proposed rezoning would allow no more than 440 dwelling units on the project site, which is less than the BAAQMD operational criteria pollutant screening size for mid-rise apartments (494 dwelling units). The proposed 3,000 square feet of retail space is intended to serve future residents of the site and users of Tamien Station, and is not expected to generate additional vehicle trips. Therefore, since the proposed project is below the screening size for criteria pollutant emissions, it would not result in a cumulatively considerable net increase in a criteria pollutant for which the Bay Area is classified as non-attainment. In addition, the project is within the residential capacities envisioned in the Tamien Specific Plan, which was included in the background development incorporated into the cumulative air quality analysis for the General Plan FPEIR. Therefore, the proposed development would not result in greater air quality impacts than those evaluated in the General Plan FPEIR. **(Less Than Significant Impact)**

Carbon Monoxide and Toxic Air Contaminants

The project does not include any diesel generators or other stationary sources of pollution which could be sources of hazardous long-term TAC emissions. Traffic generated by the proposed project, however, would be a source of carbon monoxide (CO) emissions. The BAAQMD CEQA Air Quality Guidelines state that a proposed project would result in a less than significant impact to local CO concentrations if the project would not increase traffic at affected intersections to more than 44,000 vehicles per hour. Based on the peak-hour traffic volumes at the project study intersections (refer to Appendix F), intersections affected by the project-related traffic would have traffic volumes well below the screening criteria of 44,000 vehicles per hour. Therefore, the proposed project would not cause a violation of the ambient carbon monoxide standard and would not generate long-term air pollution that could be hazardous to nearby sensitive receptors. **(Less Than Significant Impact)**

4.3.2.4 *Short-Term Regional and Local Construction Air Quality Impacts*

Construction activities would generate exhaust emissions from vehicles/equipment and fugitive particulate matter emissions, which would affect local air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water based paints, thinners, some insulating materials and caulking materials evaporate into the atmosphere and contribute to the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

Construction of the proposed project would include demolition of the existing structure and parking lot on the project site, grading and site preparation, and construction of a parking structure and two buildings. The California Emission Estimator Model, CalEEMod Version 2013.2.2, was used to compute emissions from demolition and project construction assuming full build out of the project (see Appendix A). Emissions were calculated based on model defaults for projects of this type, size, and location. Since the proposed project is a rezoning, project-specific construction equipment data, such as the number of graders or lifts, is not available at this time. Construction of the project is expected to occur over an approximate 15 month period, or an estimated 320 construction workdays.

Criteria Pollutants

Average daily construction criteria pollutant emissions were computed by dividing the total construction emissions by the number of construction days. Calculated criteria pollutant emissions are shown in Table 4.3-3 below.

Table 4.3-3 Estimated Construction Criteria Pollutant Period Emissions

Scenario	ROG	NOx	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
2016 Construction emissions (tons)	0.74 tons	5.27 tons	0.28 tons	0.27 tons
2017 Construction emissions (tons)	4.35 tons	0.57 tons	0.03 tons	0.03 tons
Average daily emissions (pounds)[1]	31.8 lbs.	36.5 lbs.	1.9 lbs.	1.9 lbs.
BAAQMD Thresholds (pounds per day)	*54 lbs.*	*54 lbs.*	*82 lbs.*	*54 lbs.*
Exceed Threshold?	No	No	No	No

Note: [1] Assumes 320 workdays.

Projected emissions from construction of the proposed project would not exceed the BAAQMD thresholds of significance for criteria pollutant emissions from construction. Therefore, the project would not result in a cumulatively considerable increase in criteria pollutant emissions. **(Less Than Significant Impact)**

Fugitive Dust

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM_{10} and $PM_{2.5}$. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soil. The amount of dust generated would be highly variable, and would be dependent on the size of the area disturbed at any given time, the amount of construction activity, soil type and moisture, and meteorological conditions. Residences located in the vicinity of the project site could be adversely affected by dust generated during construction activities. The BAAQMD *CEQA Air Quality Guidelines* consider these impacts to be less than significant if best management practices are employed to reduce these emissions. If left uncontrolled, dust generated by construction activities could be a significant impact.

Impact AQ-1: The proposed project could result in significant air quality impacts associated with fugitive dust during construction. **(Significant Impact)**

The proposed PD zoning would incorporate the following measures to reduce fugitive dust during construction:

MM AQ-1.1: All plans for demolition, grading, and building permits, as well as all construction contracts shall include the following Best Management Practices recommended by the Bay Area Air Quality Management District (BAAQMD). These measures shall be implemented during all demolition, grading, and construction activities to reduce construction-related particulate emissions:

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 or covered.

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. Building pads shall be laid as soon as possible 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 explaining this rule 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 name of an individual working for the construction contractor who can be contacted 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.

Implementation of these BAAQMD-recommended Best Management Practices during construction would reduce impacts to nearby sensitive receptors from fugitive dust to less than significant levels. **(Less Than Significant Impact With Mitigation)**

Construction Toxic Air Contaminant Emissions

Construction equipment and associated heavy-duty truck traffic generate diesel exhaust, which is a known TAC. Diesel exhaust poses both potential health and nuisance impacts to nearby receptors. A community risk assessment of the project construction activities was conducted to evaluate potential health effects to sensitive receptors at nearby residences from construction emissions of diesel particulate matter and $PM_{2.5}$.

The EPA AERMOD dispersion model was used to predict diesel particulate and $PM_{2.5}$ concentrations at existing sensitive receptors (residences) in the vicinity of the project construction area. The AERMOD dispersion model is a BAAQMD-recommended model for use in modeling these types of emission activities for CEQA projects.[11]

The maximum modeled concentrations would occur at a residence across from the project site at the northern corner of Floyd Street and Lick Avenue. Cancer and other health risks were calculated using BAAQMD-recommended risk assessment methodologies and the new OEHHA guidance for both exposures and inhalation rates. Results of the assessment indicate that project construction would increase residential infant cancer risk at the maximally exposed receptor by 50.4 cases in one million, and adult cancer risk increases would be 0.9 cases in one million. Maximum modeled annual $PM_{2.5}$ concentrations would be 0.4 $\mu g/m^3$, and the maximum computed Hazard Index would be 0.06. The residential child cancer risk and $PM_{2.5}$ concentrations exceed the thresholds of significance for community risk and hazards.

Impact AQ-2: Construction TAC emissions would result in significant health risks and $PM_{2.5}$ concentrations at nearby sensitive receptors. **(Significant Impact)**

The proposed PD zoning would incorporate the following measures to mitigate construction TAC emissions from future development.

MM AQ-2.1: All diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

MM AQ-2.2: To ensure compliance with MM AQ-2.1, the project applicant shall submit to the 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. The plan shall be submitted for review and approval prior to issuance of a grading, demolition, and/or building permit.

[11] Bay Area Air Quality Management District. *Recommended Methods for Screening and Modeling Local Risks and Hazards, Version 3.0*. May 2012. Available at: http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/ceqa-tools

With these mitigation measures included along with the BAAQMD-recommended Best Management Practices in **MM AQ-1.1**, the computed maximum increased residential child cancer risk for construction would be 4.4 in one million and the maximum $PM_{2.5}$ concentration would be 0.1 $\mu g/m^3$. Therefore, the proposed project would have less than significant impacts from construction TAC emissions. **(Less Than Significant Impact With Mitigation)**

4.3.2.5 *Odors*

The proposed project is a mixed-use residential development that would not introduce any major sources of odor to the project area. The project does not include any land uses which are typically associated with significant odors, such as industrial land uses and waste transfer stations. All garbage and solid wastes associated with operation of the proposed development would be stored in accordance with City of San José requirements, and would not be a source of long-term odor in the area. Odors from construction equipment (e.g. diesel fumes) would be temporary in nature and would be minimized through implementation of the measures contained in this chapter. Therefore, the proposed project would not result in significant odor impacts. **(No Impact)**

4.3.2.6 *Planning Considerations: Exposure of Future Residents to Air Pollution*

As previously discussed, 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 would exacerbate 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.

General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution (such as freeways and industrial uses), and the identification of project design measures to avoid significant risks to future residents and users of the project. The analysis below discloses information on the project's compliance with General Plan Policy MS-11.1.

Sources of TACs within 1,000 feet of the project site have potential to cause health impacts to future residents of the project site. The western boundary of the project site is located approximately 50 feet east of Union Pacific Railroad (UPRR)/Caltrain tracks and approximately 250 feet east of the centerline of State Route (SR) 87. Diesel-powered locomotives operating on the train tracks and vehicle traffic on SR 87 are sources of TACs, diesel particulates, and other air pollution, all of which can have deleterious effects on the health of future residents of the site. In addition, there is a back-up diesel generator adjacent to the site at 1275 Lick Avenue.

To evaluate health risk to future residents in conformance with General Plan Policy MS-11.1, a refined emissions analysis was completed using EMFAC2014 emissions data and pollutant dispersion modeling was conducted using the CAL3QHCR roadway model. The U.S. EPA's AERMOD dispersion model was used to model emissions from diesel locomotives operating on the railroad. Basic information regarding the sources and modeling are discussed below, and calculated health impacts are compared against the thresholds of significance for risks and hazards (see Table

4.3-4, below). For a complete discussion of the models and methodologies used to evaluate the health effects of air pollution to future residents of the project site, refer to Appendix A.

Sources of TAC Emissions

State Route 87

State Route 87 supports approximately 161,000 annual average vehicles per day, of which 2.4 percent are trucks.[12] To estimate long-term emissions from SR 87, traffic volumes were assumed to increase one percent per year and year 2020 emissions were assumed as representative of the 70-year exposure period modeled for future residents. This emissions scenario is considered to be a conservative estimate of roadway air pollution because not only is it unlikely that residents would live on the project site for 70 years, but also diesel particulate emissions from vehicles are projected to decrease over time due to federal and state emissions regulations for diesel trucks.

Railroad – Caltrain and Union Pacific Railroad

The project site is located approximately 80 feet east of the Tamien Caltrain Station and 50 feet from the nearest rail line. As detailed in the project air quality assessment (see Appendix A), there are approximately 42 passenger trains and six freight trains that access the station on a regular basis. As part of the Caltrain Electrification Project, nearly all of the Caltrain trains by 2025 are planned to be electric multiple unit trains, which are self-propelled electric rail vehicles. The Peninsula Corridor Joint Powers Authority formally adopted the electrification plan on January 8, 2015, and electrified service is anticipated to begin in 2020 or 2021. For calculating emissions from Caltrain locomotives, it was assumed that all trains would use diesel locomotives in 2018 and 2019. During 2020 through 2024, the analysis assumes seven daily trips using diesel locomotives and from 2025, the analysis assumes six annual diesel locomotive trips from freight trains. Extensive detail regarding the train modeling is provided in Appendix A.

Stationary Sources

Permitted stationary sources of air pollution near the project site were identified using BAAQMD/s *Stationary Source Risk & Hazard Analysis Tool*. One source was identified that could affect the project site. Plant 18009 is a back-up emergency generator located at 1275 Lick Avenue, operated by Tamien Place Investors LLC.

Health Risks

The calculated health risks from each of the above-described sources are summarized in Table 4.3-4 below. Impacts from each individual source are compared against the BAAQMD single-source thresholds of significance and the cumulative health risk from all sources are compared against the BAAQMD combined source threshold.

[12] California Department of Transportation. *Traffic Census Program.* 2015. Available at: http://traffic-counts.dot.ca.gov/

Table 4.3-4 Future Health Risks from Air Pollution Sources in the Project Area			
Source	**Maximum Increase in Cancer Risk (per million)**	**Hazard Index**	**$PM_{2.5}$ Concentration ($\mu g/m^3$)**
State Route 87 traffic	7.7	<0.01	0.45
Railroad traffic	13.7	<0.01	0.03
Plant 18009, Tamien Place Investors, LLC	3.3	<0.01	<0.01
BAAQMD Threshold – Single Sources	10	1.0	0.3
Exceed Threshold??	**Yes – 13.7 per million**	No	**Yes – 0.49 µg/m³**
Combined Sources	24.7	<0.03	<0.49
BAAQMD Threshold – Combined Sources	100	10.0	0.8
Exceed Threshold?	No	No	No
Source: Illingworth & Rodkin, Inc. *TAC and GHG Emissions Assessment*. September 11, 2015. See Appendix A of this Initial Study.			

As shown in the table above, concentrations of $PM_{2.5}$ from traffic on SR 87 and cancer risk from railroad emissions would exceed the BAAQMD single source thresholds and would pose a health risk to future residents of the project site.

Based upon guidance from the San Francisco Department of Public Health and BAAQMD, and consistent with General Plan Policy MS-11.1, the following measures would be incorporated into the project as conditions of permit approval to reduce health risks from roadway TACs to less than significant levels.[13]

Permit Conditions:

- At the Planned Development Permit phase, building and site layout shall be designed to limit exposure from sources of TAC and $PM_{2.5}$ emissions. The project shall implement the following measures:

  a) The site layout shall locate windows and air intakes as far as possible from SR 87 traffic lanes.

  b) Site plans and landscape plans for the Planned Development Permit shall show vegetation along the project site boundary with the railway and SR 87, as well as landscaping around outdoor use areas. This barrier shall include trees and shrubs that provide a dense vegetative barrier. Trees that are best suited to trapping particulate matter include the following: Pine (*Pinus nigra var. maritime*), Cypress (*X Cupressocyparis leylandii*), Hybrid popular (*Populus deltoides X trichocarpa*), and Redwoods (*Sequoia sempervirens*).

[13] Department of Public Health, City and County of San Francisco. *Assessment and Mitigation of Air Pollutant Health Effects from Intra-urban Roadways: Guidance for Land Use Planning and Environmental Review*. May 2008. Available at: http://www.gsweventcenter.com/Draft_SEIR_References%5C2008_0501_SFDPH.pdf

c) Air filtration systems shall be installed in the proposed residential buildings, and shall be shown on plans submitted for the Planned Development Permit and subsequent building permits. Air filtration devices shall be rated with a minimum efficiency reporting value (MERV) of 13 or higher. To ensure adequate health protection to sensitive receptors, this ventilation system shall meet the following minimal design standards (following guidance from the San Francisco Department of Public Health and Bay Area Air Quality Management District):

1. A MERV13 filter or higher rating;
2. At least one air exchange(s) per hour of fresh outside filtered air; and
3. At least four air exchange(s) per hour recirculation.

d) Prior to approval of the Planned Development Permit, the project air quality consultant shall submit a letter to the Planning Department's Environmental Division Supervising Planner confirming that the site layout and building design is sufficient to limit exposure to a less than significant level. The letter shall also certify that the filtration system has been utilized for all areas where the cancer risk or annual $PM_{2.5}$ concentrations exceed the BAAQMD thresholds.

- An ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be prepared and submitted to the Supervising Planner of the Environmental Review Division of Planning, Building, and Code Enforcement for review and approval prior to issuance of a building permit. This maintenance plan is typically developed by the contractor responsible for designing and constructing the HVAC system for the project. The plan shall identify the apartment complex manager or management entity as the party responsible for all ongoing maintenance of air filtration systems.

- The use agreement and other property documents shall (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks; (2) include assurance that new owners or tenants are provided information on the ventilation system; and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed. The apartment complex manager or management entity shall be responsible for ongoing maintenance, and shall make documentation of completed maintenance (e.g. copies of materials provided to tenants, dates of latest maintenance, etc.) available to the City of San José Planning Department upon request.

A properly installed and operated ventilation system with MERV13[14] air filters would provide an effective control efficiency of 53 percent (compared to outdoor concentrations). The projected annual $PM_{2.5}$ exposure associated with the use of these filtration systems is 0.23 $\mu g/m^3$, and the projected elevated cancer risk would be 6.5 in one million. With implementation of these permit conditions, $PM_{2.5}$ concentrations inside the proposed residential units and cancer risks to future

[14] MERV, which stands for 'minimum efficiency reporting value,' is a measure of the efficiency of filters in removing airborne particles from the air stream passing through them. MERV1 is the lowest rating while MERV20 is the highest. Source: U.S. Environmental Protection Agency. *Guide to Air Cleaners in the Home*. Last Updated October 14, 2015. Available at: http://www2.epa.gov/indoor-air-quality-iaq/guide-air-cleaners-home

residents would be reduced below the thresholds of 0.3 µg/m^3 and 10 cases in one million, respectively, and the proposed project would comply with General Plan Policy MS-11.1.

4.3.3 Conclusion

The proposed project would introduce residents to an area susceptible to unhealthy concentrations of fine particulates. In addition, construction of the project in the vicinity of sensitive receptors (i.e. residences) could create temporary, elevated health risks. Implementation of the project conditions and mitigation measures contained in this chapter would reduce air quality-related health risks to less than significant levels. **(Less Than Significant Impact With Mitigation)**

4.4 BIOLOGICAL RESOURCES

This section is based in part upon an Arborist Report prepared for the project by *HortScience, Inc*. in June 2015. A copy of this report is included as Appendix B in this Initial Study. A supplemental letter evaluating additional trees on Almaden Avenue is attached to the Arborist Report.

4.4.1 Setting

4.4.1.1 *On-Site Habitat*

The project site consists of a child care center, a paved surface parking lot and loop road, and an equipment staging area on the north side of the site. The vacant area on the northern portion of the site contains ruderal vegetation and exposed dirt that has been heavily disturbed by vehicle parking. The primary biological resources on the project site are the 147 landscape trees on the site (discussed further below) and associated landscaped areas. There are no sensitive habitats on the site such as wetlands or vernal pools, therefore it is unlikely that any endangered or threatened species are present on the site.

The Guadalupe River, which supports riparian and aquatic habitats, is located west of SR 87 and Lelong Street, approximately one-tenth of a mile west of the project site.

4.4.1.2 *Trees*

The City of San José Tree Removal Controls (San José Municipal Code Section 13.32.010 to 13.32.150) protect all trees that have a trunk 56 inches or more in circumference at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees.

Based on a tree survey completed for the project by *HortScience, Inc.*, there are 147 trees on the project site (see Table 4.4-1). In addition, there are 17 trees located in the median on Almaden Avenue that could be affected by the proposed extension of the northbound left-turn pocket (see Table 4.4-2). The size and species of the trees are shown in Tables 4.4-1 and 4.4-2 below. Of the trees evaluated, seven are considered native and eight are protected by the City of San José tree ordinance. For the purposes of calculating Tree Replacement Requirements, the City of San José considers all oak, willow, maple, ash, cottonwood, buckeye, and sycamore trees to be native.[15]

[15] Ross, R. Planner II, City of San José. Personal Communication. December 19, 2013 and May 26, 2015. And, City of San José. *Guidelines for Inventorying, Evaluating, and Mitigating Impacts to Landscaping Trees in the City of San José.* January 4, 2008.

Table 4.4-1 On-Site Trees

#	Species (common name)	Trunk Diameter (inches)	Condition (1 = poor, 5 = excellent)
1	Tree of heaven	14, 13, 12, 10, 9, 9, 8, 7, 6	3
2	Jacaranda	13	3
3	Jacaranda	13	4
4	Jacaranda	12	4
5	Jacaranda	10	4
6	Jacaranda	8	3
7	London plane	19	5
8	London plane	18	4
9	London plane	6	4
10	London plane	17	3
11	London plane	17	4
12	London plane	15	4
13	London plane	13	3
14	London plane	17	4
15	London plane	2	1
16	London plane	13	4
17	London plane	20	4
18	Tree of heaven	3, 3, 2, 2, 2, 2, 2, 2	3
19	Tree of heaven	3, 3, 3, 2, 2, 2, 2, 1, 1, 1, 1	3
20	London plane	17	3
21	London plane	15	4
22	London plane	13	4
23	London plane	15	4
24	London plane	15	4
25	Callery pear	8	3
26	Callery pear	8	2
27	Callery pear	10	3
28	London plane	14	3
29	London plane	12	3

Table 4.4-1 On-Site Trees

#	Species (common name)	Trunk Diameter (inches)	Condition (1 = poor, 5 = excellent)
30	Callery pear	8	3
31	Callery pear	11	3
32	Callery pear	11	2
33	Coast redwood	11	5
34	Coast redwood	18	5
35	London plane	13	3
36	Callery pear	12	4
37	Callery pear	10	3
38	Callery pear	9	3
39	European white birch	13	3
40	European white birch	11	3
41	European white birch	14	3
42	European white birch	9	3
43	Callery pear	12	4
44	Callery pear	12	4
45	Callery pear	8	2
46	London plane	13	3
47	London plane	13	3
48	London plane	12	3
49	London plane	15	3
50	London plane	9	3
51	London plane	16	4
52	London plane	16	4
53	London plane	16	4
54	London plane	17	3
55	London plane	19	4
56	London plane	19	4
57	Jacaranda	14	3
58	Jacaranda	13	2
59	Jacaranda	14	3

Table 4.4-1 On-Site Trees

#	Species (common name)	Trunk Diameter (inches)	Condition (1 = poor, 5 = excellent)
60	Jacaranda	13	3
61	Jacaranda	16	3
62	Jacaranda	14	2
63	Jacaranda	14	3
64	Jacaranda	14	3
65	Jacaranda	12	3
66	Jacaranda	14	3
67	Jacaranda	14	3
68	Coast redwood	19	5
69	Coast redwood	17	5
70	Coast redwood	18	5
71	Jacaranda	13	3
72	Jacaranda	17	3
73	Jacaranda	17	3
74	Jacaranda	9	4
75	Jacaranda	14	4
76	Jacaranda	14	3
77	Jacaranda	15	3
78	Jacaranda	13	3
79	Jacaranda	14	3
80	Jacaranda	14	2
81	Jacaranda	13	4
82	Jacaranda	11	3
83	Jacaranda	13	4
84	Purpleleaf plum	8	1
85	Jacaranda	15	4
86	Jacaranda	12	4
87	Jacaranda	15	4
88	Jacaranda	15	2
89	Jacaranda	15	3
90	Jacaranda	13	2
91	Jacaranda	15	3
92	Jacaranda	14	4
93	Jacaranda	14	3

Table 4.4-1 On-Site Trees

#	Species (common name)	Trunk Diameter (inches)	Condition (1 = poor, 5 = excellent)
94	Jacaranda	13	3
95	Jacaranda	12	3
96	Jacaranda	10	4
97	Jacaranda	10	4
98	Jacaranda	9	4
99	Jacaranda	9	4
100	Jacaranda	8	3
101	Jacaranda	13	4
102	Jacaranda	8	3
103	Jacaranda	10	4
104	Jacaranda	10	3
105	Jacaranda	12	4
106	Jacaranda	9	4
107	Jacaranda	10	4
108	Jacaranda	10	3
109	Jacaranda	13	4
110	Jacaranda	11	4
111	London plane	9	4
112	London plane	9	4
113	London plane	10	4
114	London plane	8	4
115	London plane	10	3
116	London plane	7	3
117	London plane	6	3
118	London plane	8	3
119	London plane	8	4
120	London plane	9	4
121	London plane	9	4
122	London plane	12	4
123	London plane	11	4
124	London plane	12	4
125	London plane	12	4
126	London plane	14	4
127	London plane	10	4

Table 4.4-1 On-Site Trees

#	Species (common name)	Trunk Diameter (inches)	Condition (1 = poor, 5 = excellent)
128	London plane	10	3
129	London plane	12	4
130	London plane	13	4
131	London plane	8	3
132	London plane	9	3
133	London plane	10	4
134	London plane	11	3
135	Jacaranda	8	3
136	Jacaranda	8	3
137	Jacaranda	8	3
138	Jacaranda	8	3
139	Jacaranda	8	3
140	Jacaranda	10	4
141	Jacaranda	10	3
142	Jacaranda	13	4
143	Jacaranda	12	3
144	Jacaranda	13	3
145	Jacaranda	12	3
146	Jacaranda	14	3
147	Jacaranda	14	3

Table 4.4-2 Off-Site Trees

#	Species (common name)	Trunk Diameter (inches)	Condition (1 = poor, 5 = excellent)
148	Coast live oak	10	4
149	Coast live oak	2	5
150	London plane	2	5
151	London plane	8	4
152	London plane	8	4
153	London plane	7	4
154	London plane	6	4
155	London plane	9	4
156	London plane	7	3
157	London plane	11	3
158	Coast live oak	15	3
159	Coast live oak	11	3
160	Coast live oak	18	3
161	Coast live oak	14	3
162	Coast live oak	9	3
163	Callery pear	1	5
164	Callery pear	2	5

Note: These trees are located in the median on Almaden Avenue

4.4.1.3 *Santa Clara Valley Habitat Plan*

The adopted Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan (SCVHP) was developed 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), U.S. 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 City of San José is a partner agency to the SCVHP and new development within the City is subject to the provisions and requirements of the SCVHP. Based on a query of the Santa Clara Valley Habitat Agency Geobrowser tool, the project site is designated for *Urban Development Equal to or Greater Than Two Acres Covered.*[16] Two land covers, as defined in the SCVHP, apply to the site: the northern portion of the site beyond the loop road is considered *Golf Courses/Urban Parks* whereas the remainder of the site is *Urban-Suburban.* The portion of the site designated *Golf Courses/Urban Parks* is within Fee Zone C (Small Vacant Sites Under 10 Acres) of the SCVHP.

4.4.1.4 *Applicable Plans, Policies, and Regulations*

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA: 16 USC Section 703, Supp. I, 1989) 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, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA.

State of California Fish and Game Code

The California Fish and Game Code includes provisions for the protection of birds of prey and their nests (Section 3503.5).

City of San José Bird-Safe Building Design Standards

In March 2015, the City of San José adopted voluntary bird friendly design standards. These voluntary measures can be used in new construction and renovations as well in existing buildings as operating practices.

They include but are not limited to the following:

- Reduce large areas of transparent or reflective glass.
- Locate water features and other bird habitat away from building exteriors to reduce reflection.

[16] Santa Clara Valley Habitat Agency. *Habitat Agency Geobrowser.* Accessed October 27, 2015. Available at: http://www.hcpmaps.com/habitat/

- Reduce or eliminate the visibility of landscaped areas behind glass.
- Reduce or eliminate spotlights on buildings.
- Turn non-emergency lighting off at night, especially during bird migration season (February-May and August-November).

San José General Plan

The *Envision San José 2040 General Plan* includes the following policy applicable to all development projects in San José. The following policies specific to biological resources are applicable to the proposed project.

Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

Policy ER-2.2: Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Policy ER-2.3: Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.

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

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

Policy ER-6.5: Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.

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.

4.4.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☒	☐	☐	1, 2
2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☐	☒	1, 2
3. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	1, 2
4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	1, 2
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐	1 – 3, 9
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	10

4.4.2.1 *Impacts to Sensitive Habitats and Species*

The project site and surrounding area are urban, developed habitat with a low potential to support special-status species. Development of the project site would not result in substantial adverse impacts to wetlands, riparian habitat, or other sensitive habitats. The site does not serve as a migratory corridor or wildlife nursery site. **(No Impact)**

The trees on and near the project site, however, could provide nesting habitat for tree-nesting raptors and birds. Construction on the site during nesting season could result in the abandonment of active nests and/or direct mortality to individual birds or raptors. Such impacts could occur directly through tree removal or indirectly due to disturbances near trees caused by construction.

Impact BIO-1: Removal of trees from the site and construction of future residential development could impact tree-nesting migratory birds on or adjacent to the project site. **(Significant Impact)**

The following measures would be incorporated into the proposed project to reduce potentially significant impacts to nesting birds and raptors:

MM BIO-1.1: A qualified biologist shall conduct protocol-level (i.e. following the California Department of Fish and Wildlife bird survey protocols), pre-construction surveys for migratory birds on-site and off-site prior to the onset of ground disturbance or tree removal, if disturbance is to occur during the breeding season (February 1st to August 31st). During the early part of the breeding season (February 1st to May 31st), pre-construction surveys shall be performed no more than 14 days prior to the start of ground disturbance, construction, or tree removal. During the latter part of the breeding season (June 1st to August 31st), pre-construction surveys shall be conducted no more than 30 days prior to the start of ground disturbance, construction or tree removal. All trees within 250 feet of the limits of grading shall be inspected as construction occurs on the project site. Pre-construction surveys are not required outside of the nesting season.

MM BIO-1.2: If a migratory bird or nest is detected during the pre-construction surveys or during construction, an appropriate construction buffer shall be established during the nesting season. Actual size of buffer will be determined by the biologist based on CDFW protocol and will depend on species, topography, and type of construction activity that would occur in the vicinity of the nest.

MM BIO-1.3: A report summarizing results of the pre-construction survey and subsequent efforts to protect migratory birds (if found to be present) shall be submitted to the Supervising Planner of the City of San José Planning Department's Environmental Review Division prior to the start of construction activities.

With incorporation of these measures into the PD zoning standards, future development on the site would substantially reduce the potential for impacts to nesting birds. **(Less Than Significant Impact With Mitigation)**

4.4.2.2 *Impacts to Trees*

There are currently 147 trees on the project site, none of which are considered native to the City of San José. In addition, there are 17 trees in the median on Almaden Avenue that could be affected by extension of the northbound left-turn pocket. Future construction of the project would result in the removal of some or all of these trees. As shown in Table 4.4-3 below, if all trees are removed, including those on Almaden Avenue, the project would be required to plant 168 24-inch box replacement trees and 89 15-gallon box replacement trees.

Table 4.4-3 San José Tree Replacement Requirements

Diameter of Tree	Number of Trees (On-Site & Off-Site)	Native/Non-Native Status	Type of Tree to be Removed			Minimum Replacement Tree Size	Required Replacement Trees (if all removed)
			Native	Non-Native	Orchard		
>18"	8	0/8	5:1	4:1	3:1	24-inch box	32
12-18”	67	2/65	3:1	2:1	none	24-inch box	136
<12”	89	0/89	1:1	1:1	none	15-gallon box	89
Totals:	164	0/164	-	-	-	-	257

x:x = replacement trees : removed trees
Note: For the purposes of calculating Tree Replacement Requirements, the City of San José considers all Oak, Willow, Maple, Ash, Cottonwood, Buckeye, and Sycamore trees to be native

In accordance with City policy, trees shall be replaced according to the ratios shown in the table above. The location and species of trees to be planted is determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. Any Planned Development Permit, amendment, or adjustment seeking approval for tree removal for any phase of this project is required to include a landscape plan that reproduces the tree replacement ratio shown in Table 4.4-3 and identifies how many trees are proposed to be planted on-site.

When a project does not include sufficient replacement trees on-site, City policy requires implementation of one or more of the following standard project conditions to compensate for the difference between the required tree mitigation and the proposed tree planting, to the satisfaction of the Director of Planning, Building and Code Enforcement.

Standard Project Conditions:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.

Prior to the approval of a Planned Development Permit, amendment, or adjustment that identifies tree removal, the applicant shall, in consultation with the City's Supervising Environmental Planner, finalize the location of off-site tree planting.

- If the above two options do not provide sufficient mitigation for the project's impacts to trees, $300 per replacement tree may be paid to *Our City Forest* for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Supervising Environmental Planner prior to issuance of a grading permit or tree removal permit.

- Street trees shall be installed within the public right-of-way along the entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Project." Street trees shall be installed in cut-outs at the back of the curb. A DOT street tree planting permit shall be obtained for any proposed street tree planting.

- Contact the City Arborist at (408) 794-1915 for the designated street tree.

The proposed project is required to comply with the City of San José tree replacement requirements, and would provide on- and off-site tree replacement to compensate for trees removed as part of the project. Therefore, the proposed project would compensate for all trees removed for the site, and would not conflict with a local tree ordinance. On- and off-site trees intended for preservation, however, could be damaged by construction equipment.

Impact BIO-2: Construction of the project could damage any trees planned for preservation on or adjacent to the project site. **(Significant Impact)**

Implementation of the following measures would ensure protection of trees that could be inadvertently damaged during construction.

MM BIO-2.1: The following measures shall be included in notes on the approved plans for the Planned Development Permit, demolition permits, grading permits, and building permits to avoid construction-related impacts to trees to be preserved:

- No construction equipment, vehicles or materials shall be stored, parked, or left standing within the tree dripline; and
- Drains shall be installed according to city specifications so as to avoid harm to trees due to excess watering; and
- Wires, signs and other similar items shall not be attached to trees; and
- Cutting and filling around the base of trees shall be done only after consultation with the City Arborist and then only to the extent authorized by the City Arborist; and
- No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or

into any grate between the dripline and the base of the tree or uphill from any tree where certain substances might reach the roots through a leaching process; and

- Barricades shall be constructed around the driplines of the trees as specified by a qualified arborist so as to prevent injury to trees making them susceptible to disease causing organisms. If ground disturbance or equipment access must occur within the dripline, the barricade shall be constructed as far from the trunk as feasible; and
- Wherever cuts are made in the ground near the roots of trees, appropriate measures as determined by the project consulting arborist, shall be taken to prevent exposed soil from drying out and causing damage to tree roots. (SJMC 13.32.130)
- Damage to any tree during construction shall be reported to the Director of Planning, Building, and Code Enforcement, and the contractor or owner shall treat the tree for damage in the manner specified by the City Arborist;

With implementation of these measures, the proposed project would have a less than significant impact to trees. **(Less Than Significant Impact With Mitigation)**

4.4.2.3 *Santa Clara Valley Habitat Plan Consistency*

Approximately two acres of the project site north of the loop road have a land cover designation of *Golf Courses/Urban Parks*, whereas the remainder of the site is *Urban-Suburban.* Though the site is not subject to any of the wildlife survey requirements of the SCVHP, the two acres on the northern portion of the site are within Fee Zone C of the SCVHP. Due to the loss of this open space, the proposed project would incrementally contribute to the loss of open space evaluated in the SCVHP. To compensate for the loss of this land, the project applicant would be required to pay fees to the Santa Clara Valley Habitat Agency. Those fees are used to preserve and manage land elsewhere in the SCVHP plan area.

Nitrogen Deposition

Regional nitrogen emissions from automobiles increase the nutrient load in serpentine grassland communities and can result in the loss of plants necessary to support the Bay Checkerspot butterfly, a species listed as threatened under the federal Endangered Species Act. The SCVHP requires payment of nitrogen deposition fees for all covered projects that generate new net vehicle trips and are two acres in size or more. These fees are used to protect and restore serpentine grassland communities which support the Bay Checkerspot butterfly.

Since the City of San José is a local partner to the SCVHP, the proposed project is considered a covered project. As discussed in ***Section 4.16, Transportation***, the proposed project would generate approximately 2,172 net new daily vehicle trips. The proposed project would be required to pay nitrogen deposition fees for these vehicle trips as part of compliance with the SCVHP. Since the SCVHP fee program was designed in such a way that fees paid by development within the jurisdictions of the six local partners would be sufficient to mitigate for the impacts evaluated in the

SCVHP, payment of mandatory nitrogen deposition fees would reduce the project's contribution to cumulatively significant regional nitrogen deposition impacts to a less than significant level. **(Less Than Significant Impact)**

4.4.3 Conclusion

The proposed project would not result in any direct impacts to sensitive biological habitats or special-status species. Implementation of **MM BIO-1.1 – 1.3** and **MM BIO-2.1** would reduce potentially significant impacts to trees and tree-nesting birds to less than significant levels. With the payment of fees as required by the City of San José, the proposed project would be consistent with the SCVHP. **(Less Than Significant Impact With Mitigation)**

4.5 CULTURAL RESOURCES

This section is based on a Cultural Resources Treatment Plan and an Archaeological Monitoring letter report prepared for the project by *Far Western Anthropological Research Group, Inc.* in June and August 2015, respectively. Due to the sensitive nature of tribal and archaeological resources, these reports are not included as appendices to this Initial Study. The reports are available for review by qualified professionals and California Native American tribe members *only* at the City of San José Planning Department.

4.5.1 Setting

4.5.1.1 *Prehistoric Resources*

Overview

Native Americans occupied the Santa Clara Valley and the greater San Francisco Bay Area for more than 1,000 years. Though the time period of human migration into the area is not known precisely, multiple habitation sites dating to the Middle Holocene era (8200-4200 cal BP[17]) have been discovered throughout the Bay Area. Occupation of the region by the Late Holocene era (4200-170 cal BP) is documented based on well-dated and widely traded shell beads.

The project area occurs within the aboriginal territory of the Costanoans, who are known today as the Ohlone. The Ohlone had an established population of approximately 7,000 to 11,000 people with a territory from the San Francisco Peninsula and East Bay to the Santa Clara Valley and down to Monterey. The basic unit of political organization was a territory-holding group of one or more associated villages and smaller temporary encampments. These units, referred to as 'tribelets' by some scholars and as 'tribes' by others, were autonomous and generally ranged in size from 200 to 400 people. Some tribes occupied a central village while others had multiple villages located within a few miles of each other. Few of these settlements were occupied on a year-round basis as the tribes would travel to their various village sites to take advantage of seasonal food resources.

Historic Era

The aboriginal way of life for the Ohlone was greatly disrupted by the influx of explorers and the establishment of missions by the Spanish. The reduced population and displacement of native peoples caused by missionization and Anglo-American occupation of their land substantially altered their traditional way of life. This change marked the end of the prehistoric period, and the historic period for the Bay Area began in 1769 with the entry of the Spanish Portola expedition.

Spanish colonial policy throughout the late 1700s and early 1800s was directed toward establishment of missions, presidios, and secular towns known as pueblos, with all land being held by Spain. Agriculture was introduced along with the founding of missions and the native inhabitants were

[17] 'Cal BP' stands for 'calibrated years before present,' and is the scale of time measurement employed for radiocarbon dating prehistoric resources. The reference point on the scale is the year 1950, and the calibration accounts for variation in levels of atmospheric radiocarbon so as to make the years indicated equivalent to the modern calendar year. Thus, the year 50 cal BP is the year 1900, and 150 cal BP is the year 1800, etc.

enlisted as laborers. By 1810, all Ohlone had left their villages and were living on mission lands, where their daily lifestyles, work, diet, and religious expression were controlled by padres.

The Spanish Period lasted until 1821, when the Mexican government gained control over this region. The mission system declined during this time as Natives abandoned the missions and moved to the ranchos established by the Mexican government. This shift was relatively short-lived, however, as the region came under American control after the defeat of the Californios (Mexican) forces in 1847. Agriculture continued to be the main pursuit in the South Bay Area, and construction of two railroads established vital regional connections. The City of San José was incorporated in 1850.

4.5.1.2 *Previous Site Investigations and Site Sensitivity*

Tamien Station Site CA-SCL-690

The project site is located on the alluvial floodplain east of the Guadalupe River in central Santa Clara Valley. Historically, the Guadalupe River meandered northwesterly parallel to the channels of Coyote and Saratoga creeks. This system collectively drained approximately 1,300 square kilometers of the Santa Clara Valley. Waterways are generally associated with prehistoric occupation and areas near historic waterways are considered highly sensitive for subsurface prehistoric resources.

In 1989, an 80-year-old fruit cannery was demolished on the project site as part of the construction of the Tamien Transit Station and parking lot. During construction, a Native American burial ground (P-43-001071/SCL-690) was discovered on the project site. Once the burials were discovered, Mark Hylkema of the California Department of Transportation, in consultation with the State Historic Preservation Office, Federal Highway Administration, Native American Heritage Commission, and the Muwekma Ohlone Tribe, put together an excavation plan to mitigate the impacts of that project. His excavation recovered materials associated with Ohlone burials. In addition, a total of 125 human burials were uncovered, clearly indicating that this site was a Native American burial ground.

In consultation with the local Native American community, the remains were reburied near the parking lot site. Subsequently, unassociated human remains and several grave lots were discovered and reburied north of the reburial trench. Like the original site, this reburial is considered sacred and its location is protected out of respect for those buried there as well as their descendants.

<u>Additional Studies</u>

In 1994, the Santa Clara Valley Transportation Authority (VTA) constructed the 9,500 square foot Tamien Station Child Center on the southeastern corner of the project site. No cultural materials were identified by the archaeological monitor from *Basin Research Associates* during construction of that facility.

In 1998, *Ohlone Families Consulting Services (OFCS)* was contracted by the San José Unified School District to conduct testing on the vacant parcel north of the current project site, which at the time was anticipated to be the location of a new elementary school. OFCS excavated 30 test trenches perpendicular to Highway 87, and seven of them tested positive for prehistoric cultural materials.

Human remains were recovered between one and two feet below the ground surface. All resources were left in place during and following this investigation.

In 2003, *Holman & Associates* excavated twelve test trenches on the parcel south of the project site for the "Tamien Place" residential development. Six of the trenches indicated possible cultural deposits including the presence of charcoal/carbon in the soil matrix, a chert flake, baked clay fragments, and fire-cracked rock.

In 2008, *Far Western Anthropological Research Group, Inc.* conducted exploratory trenching for a VTA project to install lighting along the bicycle trail approach to Tamien Station. In four trenches dug to depths of nearly seven feet, no cultural deposits were noted.

In August 2015, an archaeologist from *Far Western* and a Native American representative from *Nototomne Cultural Preservation* monitored the subsurface testing conducted to evaluate the potential for hazardous contamination on the project site (see ***Section 4.8, Hazards and Hazardous Materials*** for more details on the testing). During the testing, 10 1.5-inch diameter cores were advanced in the project site to depths ranging from five to 30 feet below surface. Coring locations were selected to avoid the protected area on the site.

Small sections (approximately four inches long) of select cores were cut off and kept sealed for chemical analysis, while the remainder were opened in the field and visually examined for archaeological materials. After examination, the small soil cores were removed from the liners and broken down by hand in an additional effort to identify cultural materials. Additionally, one core was excavated with a hand auger and the sediment emptied into a bucket and examined for cultural materials. No archaeological materials or human remains were identified during monitoring.[18]

4.5.1.3 *Historical Resources*

The only structure on the project site is the Tamien Child Care Center, which was constructed by VTA in 1994. Other elements of the built environment include surface parking, light and utility poles, and parking signs. Since the existing structures are not over 50 years in age and were built following standard construction practices, the elements of the built environment on the project site do not appear to qualify as an historic resource under federal, state, or City criteria.

The project site is located adjacent to two vacant lots, the Tamien Station, and Lick Avenue. There are no extant historic structures on the City's Historic Inventory in the immediate vicinity of the site. The listed resource closest to the site is a home located at 320 Goodyear Street, just under 1,000 feet northeast of the project site.[19]

[18] Far Western Anthropological Research Group, Inc. *Results of Archaeological Monitoring of Environmental Soil Sampling at Site CA-SCL-690, for the Tamien Station Transit-Oriented Development Project, San Jose, Santa Clara County, California.* August 24, 2015.
[19] City of San José. *City of San José Historic Resources Inventory*. September 23, 2014. Available at: https://www.sanjoseca.gov/DocumentCenter/View/35475

4.5.1.4 *Applicable Plans, Policies, and Regulations*

Assembly Bill (AB) 52

Assembly Bill (AB) 52 was approved by the Governor on September 25, 2014. It adds a new category of resources to CEQA that must be considered during project planning – Tribal Cultural Resources. It also establishes a framework and timeline for consultation. AB 52 applies to projects that have a notice of preparation or a notice of negative declaration or mitigated negative declaration filed on or after July 1, 2015.

AB 52 requires lead agencies to conduct 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, however, most lead agencies conduct consultation in appropriate scenarios as a matter of best practice. On September 29, 2015, notification letters were sent to a list of Native American contacts provided by the Native American Heritage Commission. At the time of preparation of this Initial Study, the City of San José had yet to receive any requests for notification from tribes.

California State Code

Archaeological, paleontological, and historical sites are protected by a number of State policies and regulations under the California Public Resources Code and California Health and Safety Code. California Public 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.

City of San José General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are 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.

City of San José Historic Resources Inventory

The HRI is an inventory of San José's historically and architecturally significant buildings. According to 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).

Although the definitions listed are the most important determinants in evaluating the historic value of San José resources, the City of San José also has a numerical tally system that must be used in identifying potential historic resources. The "Historic Evaluation Sheet" requires resources to be rated according to visual quality/design; history/association; environment/context; integrity; reversibility; interior quality and conditions; and NRHP/CRHR status. A points-based rating system is used to score each building according to the extent to which it meets the criteria listed above. The final tallies are divided into two categories:

- Potential Historic Resource (evaluate for possible status as a City Landmark/California Register resource
- Non-significant structure

According to the City of San José's *Guide to Historic Reports*, a City Landmark is "a significant historic resource having the potential for landmark designation as defined in the Historic Preservation Ordinance. Preservation of this resource is essential." The preservation of Structures of Merit "should be a high priority" but these structures are not considered significant historic resources for the purposes of CEQA.

4.5.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☒	☐	1
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☒	☐	☐	1, 3, 11
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☒	☐	1
4. Disturb any human remains, including those interred outside of formal cemeteries?	☐	☒	☐	☐	1, 3, 11

4.5.2.1 *Criteria for Determining Significance of Effects*

An environmental document prepared to comply with CEQA must identify the potentially significant environmental effects of a proposed project. A "[s]ignificant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project (CEQA Guidelines §15382). CEQA also requires that the environmental document propose feasible measures to avoid or substantially reduce significant environmental effects (CEQA Guidelines §15126.4(a)).

California regulations require that effects to cultural resources be considered only for resources meeting the criteria for eligibility to the California Register, outlined in Section 5024.1 of the California Public Resources Code. Under this section, an important historical property is one that meets any of the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of California's history of cultural heritage;
2. Is associated with the lives of persons important in California's past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic value;
4. Has yielded, or may be likely to yield, information important in prehistory or history; or
5. Under Section 21083.2 of CEQA, a "unique" archaeological resource is an object, artifact, or site that can be clearly shown to meet any of the following criteria:
    - Contains information needed to answer important scientific research questions, and a demonstrable public interest in that information exists;
    - Has a special and particular quality such as being the oldest of its type, or the best available example of its type; or
    - Is directly associated with a scientifically recognized important prehistoric or historic event or person.

Demolition, replacement, substantial alteration, or relocation of an eligible resource are all actions that could change the significance of the resource. California law also protects Native American burials, skeletal remains, and associated grave goods regardless of their antiquity, and provides for the sensitive treatment and disposition of those remains (California Health and Safety Code Section 7050.5, California Public Resources Code Sections 5097.94 et seq.).

While historic properties may be found eligible for the California Register under virtually any of the criteria discussed above, prehistoric archaeological sites are most often evaluated with respect to a demonstrated potential to yield information important to an understanding of prehistory (Criterion 4). Properties deemed unique and eligible for listing on the California Register should provide evidence that they retain information applicable to identified research domains. The first step in this process is generally the identification of such pertinent research domains that might be addressed by data generated from archaeological sites within the project area. Archaeological sites (or contributing elements) for which it can be demonstrated that there is potential to recover important information to address these research domains may be determined eligible for listing on the California Register.

4.5.2.2 *Impacts to Prehistoric Resources*

The proposed project would rezone the site from *LI - Light Industrial* to *(A)PD Planned Development* to accommodate development of two multi-family residential buildings with a small area of general retail uses. Since the project applicant is not submitting an application for a development permit at this time, the precise locations and extent of excavation are not known at this time. At present, the applicant anticipates up to eight feet of general ground disturbance on the project site (excluding the easement protecting the reburial), primarily on the east side of the site along Lick Avenue. Additionally, 11 feet of ground disturbance may be required for utility work. The locations of utility trenches are not known at this time.

A known Native American reburial[20] area occupies the project site. The proposed project is designed to avoid modifications to the reburial site and no excavation or substantial disturbance would be allowed through this area or in proximity to it. A stormwater retention area and pipe is proposed west of the reburial area, but it would not be constructed within 10 feet of the reburial. A minimum 10 foot setback would be maintained around the reburial for all ground disturbing activities. The sensitive area would be landscaped and people would be allowed to traverse it, but no structures would be constructed on it. Motorized construction equipment would also not be allowed within the 10 foot setback of the reburial area.

Given that there is a known archaeological site, CA-SCL-690, on the project site, the project site is highly sensitive for subsurface prehistoric resources. Although there were many artifacts and human remains recovered during a data recovery effort in 1989, it is possible that other unknown resources are still located on the site. Construction of the proposed project could disturb these resources and result in a significant impact to subsurface prehistoric resources and human remains.

Impact CUL-1: Excavation and grading for the proposed project could impact known and unknown subsurface Native American human remains and prehistoric resources. **(Significant Impact)**

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

The project site is currently occupied by a child care center and a heavily-used Caltrain parking lot. Approval of the proposed rezoning would not permit immediate ground disturbance (i.e. a PD permit would be required prior to any ground disturbance). In addition, there is not enough detail about the project at this time to be certain of the locations of subsurface ground disturbance. Therefore, rather than initiate a full subsurface investigation at this stage and risk disturbing subsurface resources before any development has been approved, the project would implement the following mitigation measures to reduce potential impacts to subsurface pre-historic resources and Native American human remains prior to issuance of a grading permit.

[20] A Native America reburial is a location where human remains of prehistoric Native Americans are reburied after removal from their original burial place, in this case as a result of previous site development.

A Cultural Resources Treatment Plan has been prepared to detail requirements for a subsurface investigation program and measures that would be implemented prior to and during construction of a future residential project. The key elements of the Treatment Plan are summarized in these mitigation measures, and are detailed in full in the Cultural Resources Treatment Plan prepared by *Far Western Anthropological Research Group* in July 2015.

MM CUL-1.1: Native American Consultation and Coordination: All earthwork completed on the site, including any for the mitigation program detailed below, shall be conducted in consultation with Native American tribe representatives connected with the site.

MM CUL-1.2: Treatment Plan: Prior to approval of a Planned Development permit, a project-specific Cultural Resources Treatment Plan shall be prepared by a qualified archaeologist. The Plan shall reflect permit-level detail pertaining to depths and locations of all ground disturbing activities. The Cultural Resources Treatment Plan shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement prior to approval of a Planned Development permit. The Treatment Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan).
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy used to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, consultation with Native Americans, etc.

MM CUL-1.3: Investigation: Prior to project grading and excavation, the project applicant shall complete a field investigation program in conformance with the project-specific Cultural Resources Treatment Plan required under mitigation MM CUL-1.2. The locations of subsurface testing and exploratory trenching shall be determined prior to issuance of a Planned Development permit based on the Cultural Resources Treatment Plan recommendations. The investigation program shall be submitted to the Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of a Planned Development permit. The investigation program shall include, but not be limited to, the following:

- North-south trench across the area of the positive trenches identified in the San Jose Unified School District Investigation in 1998.
- Exploratory trenching at locations of proposed ground disturbance in excess of five feet below ground surface.

Results of the investigation shall be provided to the Director of Planning, Building, and Code Enforcement prior to issuance of grading permits.

MM CUL-1.4: Evaluation and Data Recovery: Any prehistoric material identified in the project area during the field investigation in mitigation MM CUL-1.3 shall be evaluated for eligibility for listing in the California Register of Historic Resources. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.

If a deposit is identified and determined to be a contributing portion of the National Register site SCL-690 and project impacts to the deposit cannot be avoided, then mitigation (i.e. data recovery) shall be undertaken immediately. A comprehensive data recovery program may include salvaging artifacts, comprehensive research, and laboratory analyses. If human remains are identified, the Most Likely Descendent (identified in consultation with the Native American Heritage Commission) will determine the disposition of the remains if they cannot be avoided.

The techniques used for data recovery shall follow the protocols identified in the project-specific Cultural Resources Treatment Plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation.

MM CUL-1.5: Human Remains: Native American coordination shall follow the protocols established under Assembly Bill 52, State of California Code, and applicable City of San José procedures. In addition, the following measures shall be implemented with regard to human remains:

a) If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. The City of San José Director of Planning, Building, and Code Enforcement shall be notified along with the project's lead archaeologist. City personnel or the archaeologist shall contact the Santa Clara County Coroner immediately.

b) If the remains are believed to be Native American, the Coroner must contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC must then designate a Most Likely Descendant (MLD). The MLD will contact the City of San José Director of Planning,

Building, and Code Enforcement, or a designated representative, within 24 hours of being notified, to inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. In the event human remains need to be left uncovered overnight, a guard shall be put on duty until the next working day, unless the designated Most Likely Descendant requests otherwise (e.g., that they be left unmarked or collected).

c) The project applicant shall explore all feasible options to redesign the project to avoid human remains. If this is not possible, alternative treatment scenarios should be considered, such as reburial of human remains in a secure place, as close as possible to the site. Initially, no photographs shall be taken of any human remains. They will be recorded, along with any grave-associated artifacts, and left in place until the designated Most Likely Descendant can make a decision on their reburial. Upon reburial, a GPS point shall be recorded at that location and identified on a Sacred Lands Form, which shall be submitted to the Native American Heritage Commission.

MM CUL-1.6: Safety and Site Security: Historic industrial uses on the site used hazardous materials, including metals and petroleum products. Based on the initial evaluation of hazardous contamination conducted in 2015, there is no health threat to construction workers from exposure to on-site soils. Results of any additional site characterization conducted under a Voluntary Cleanup Program required under MM HAZ-1.1 shall be reviewed by the project archaeologist for safety implications prior to archaeological ground investigations.

At the discretion of the qualified archaeologist responsible for the data recovery (i.e. the Field Director), site fencing shall be installed on-site during the investigation to avoid destruction and/or theft of archaeological material. A security guard shall also be hired during non-excavation hours to provide additional site security if any human remains are left exposed overnight. The responsible qualified archaeologist shall advise the Supervising Planner of the Planning, Building, and Code Enforcement's Environmental Review Division as to the necessity for a guard. Final authority to determine the need for a guard rests with the Director of Planning, Building, and Code Enforcement.

MM CUL-1.7: Technical Reporting: Once all analyses and studies required by the project-specific Cultural Resources Treatment Plan have been completed, a technical report summarizing the results of the field investigation and data recovery shall be prepared. The report shall document the results of field and laboratory investigations and shall meet the Secretary of the Interior's *Standards for Archaeological Documentation*. The contents of the report shall be consistent with the protocol included in the project-specific Cultural Resources Treatment Plan. The report shall be submitted to the City of San

José Director of Planning, Building, and Code Enforcement for review and approval prior to issuance of Certificates of Occupancy. Once approved, the final documentation shall be submitted to the Northwest Information Center at Sonoma State University.

MM CUL-1.8: Curation: Upon completion of the final technical report required by the project-specific Cultural Resources Treatment Plan, all recovered archaeological materials shall be transferred to a long-term curation facility, such as the David A. Frederickson Archaeological Collections Facility at the Anthropological Studies Center, Sonoma State University. Any curation facility used shall meet the standards outlined in the National Park Services' *Curation of Federally Owned and Administered Archaeological Collections* (36 CFR 79).

Treatment of materials to be curated shall be consistent with the protocols included in the project-specific Cultural Resources Treatment Plan.

MM CUL-1.9: Construction Monitoring and Protection Measures: Although the data recovery and treatment program is expected to recover all potentially significant materials and information from the areas impacted by the project, it is possible that additional resources could remain on-site. Therefore, all ground-disturbing activities (e.g. grading and excavation) shall be completed under the observation of an archaeological monitor. In addition to monitoring uncovered soils for indications of archaeological materials, the monitor shall also ensure that no equipment use or earthwork occurs on top of the reburial area.

Protective fencing shall be placed around the reburial area for the duration of construction. Heavy diesel equipment shall not be used on the reburial area. Any work required over the reburial area must be conducted manually or with handheld equipment to the extent feasible. If ground disturbance above the reburial is necessary, it shall be conducted only in consultation with appropriate Native American representatives and a qualified archaeologist.

The archaeological monitor shall have authority to halt construction activities temporarily in the immediate vicinity of an unanticipated find or within the vicinity of the reburial area. If a monitor is not present but construction crews encounter a cultural resource, all work shall stop temporarily within 50 feet of the find until a qualified professional archaeologist has been contacted to determine the proper course of action. Any human remains encountered during construction shall be treated according to the protocol identified in **MM CUL-1.5**.

The proposed project would be required to implement the provisions of a project-specific Cultural Resources Treatment Plan, as outlined in the mitigation measures above. Implementation of these measures would ensure extensive subsurface investigation in the areas of anticipated subsurface

excavation and groundwork. Through this field investigation and data recovery program, the project would avoid demolition, replacement, substantial alteration, or relocation of an eligible resource. Significant disturbance of any human remains, Native American or otherwise, would be avoided through a robust protection program designed to respond to an encounter with cultural resources and/or human remains in consultation with appropriate parties (e.g. the Most Likely Descendant).

The proposed project would avoid the Native American reburial located within the site. With implementation of the mitigation measures identified in this section, the proposed project would not result in a substantial adverse change in the significance of an archaeological or prehistoric resource. In addition, these measures would avoid significant impacts to human remains. **(Less Than Significant Impact With Mitigation)**

4.5.2.3 *Impacts to Historic Resources*

The Tamien Child Care Center, which was constructed by the VTA in 1994, is not over 50 years old and is not anticipated to be eligible for listing on the state or federal registers for historic resources. There are no historic structures close enough to the site that they could be affected by construction vibration. Demolition of existing development on the site would not result in potentially significant impacts to historic resources. **(Less Than Significant Impact)**

4.5.3 Conclusion

There are no historic resources on or adjacent to the site that would be affected by project construction. Implementation of **MM CUL-1.1** through **MM CUL-1.9** would ensure sufficient characterization and protection for known and unknown cultural resources on the project site. The proposed project would have less than significant impacts to cultural resources with the incorporation of these measures. **(Less Than Significant Impact With Mitigation)**

4.6 GEOLOGY AND SOILS

The following discussion is based in part on a Geotechnical Feasibility Assessment prepared for the site by *ENGEO, Inc.* on February 24, 2014. This report is attached as Appendix C of this Initial Study.

4.6.1 Setting

4.6.1.1 *Soils and Groundwater*

The project site is located in the north-south trending, alluvial Santa Clara Valley, and is underlain by Holocene-age levee soil deposits associated with the Guadalupe River. These soils are typically loose-sandy and clayey-silt ranging to sandy and silty-clay. Soils on the project site are expected to be moderately expansive; therefore, there is potential for shrink-swell action resulting from moisture changes to cause heaving and cracking of slabs-on-grade, pavements, and structures.

Cone Penetration Tests undertaken for the project geotechnical feasibility assessment recorded groundwater between 18 and 20 feet below ground surface (bgs). The highest historical groundwater level in the vicinity of the site has been up to 15 feet bgs. Fluctuations in groundwater levels should be expected during seasonal changes or over a period of years due to precipitation changes, changes in drainage patterns, and irrigation.

4.6.1.2 *Seismicity*

The project site is not located within a State of California Earthquake Fault Hazard Zone and no known faults cross the site. The nearest inactive seismic faults are the San José fault approximately 1.6 miles southeast of the site and the Silver Creek fault approximately 1.9 miles northeast. Table 4.6-1 below summarizes the proximity of active seismic faults to the project site.

Table 4.6-1 Distance of Project Site to Nearest Faults

Fault Name	Approximate Distance (miles)	Approximate Direction from Site
Monte Vista-Shannon	6.3	West
Calaveras	8.5	East
Hayward	9.9	Northeast
San Andreas	11.2	Southwest
Zayante Vergeles	16.3	Southwest

4.6.1.3 *Liquefaction*

Soil liquefaction is a phenomenon in which saturated, cohesion-less soils undergo a temporary loss of strength during seismic ground shaking. When liquefaction occurs, soils can lose their ability to bear the load of overlying soils or structures. This phenomenon can occur in soil settlement and cracking of building foundations. Layers of silty and sandy materials were found below 40 feet bgs at the north end of the site and below 27 feet bgs at the southern portion of the site. These soils are

considered potentially liquefiable, and the assessment found that total liquefaction-induced settlements ranging from a ¼-inch to ½-inch could occur as a result of a strong seismic event.

4.6.1.4 *Lateral Spreading*

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area such as a steep bank of a stream channel or cliff. The potentially liquefiable deposits identified above do not appear to intersect with the free face created by existing slopes within the project site, therefore, the potential for lateral spreading is low.

4.6.1.5 *Applicable Plans, Policies, and Regulations*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. The Earthquake Fault Zones indicate areas with potential surface fault-rupture hazards. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

California Building Code

The California Building Code prescribes a standard for constructing safer buildings throughout the State of California. It contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, strength of the ground and distance to seismic sources. The Code is renewed on a triennial basis every three years; the current version is the 2014 Building Standards Code.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the 2013 California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies specific to geology and soils are 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-4.1: Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

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

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

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

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

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

4.6.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
a. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	1, 12
b. Strong seismic ground shaking?	☐	☐	☒	☐	12
c. Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐	1, 2, 12
d. Landslides?	☐	☐	☐	☒	1
2. Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	12
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐	1, 12
4. 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?	☐	☐	☒	☐	12
5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1

4.6.2.1 *Soil Impacts*

Soils on the project site are moderately expansive and future residential buildings could be subject to load-induced settlements after construction is complete. Both of these properties indicate that on-site soils could pose hazards to future residents due to the potential for damage to building foundations or structures. The project would be required to comply with the latest California Building Code as enforced by the City of San José, which generally ensures that new development is designed to take into account on-site soil conditions and seismic hazards. Based on the recommendations of the Geotechnical Feasibility Assessment, a design-level geotechnical exploration should be completed for the project once more details of the proposed grading scheme and foundations are known.

The proposed project would be required to implement the following standard project conditions, which are required of all projects in the City of San José, to avoid significant hazards from site soils and geologic conditions:

Standard Project Conditions

- A design-level geotechnical investigation report addressing the potential hazard of liquefaction and expansive soils must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Department of Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation, and should provide detailed geotechnical recommendations for the design and construction of the project.
- The geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.
- Since the project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site. These measures are generally covered by measures included to protect air quality and water quality. They include, but are not limited to:

    - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day or covered.
    - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
    - 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.
    - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

Implementation of these standard project conditions would ensure that potential soil-related hazards do not pose significant risks to future structures built on the site. Implementation of a SWPPP and best management practices to prevent erosion would also avoid significant erosion impacts. These measures are required by the City as conditions of project approval, therefore soil-related hazards would be less than significant. **(Less Than Significant Impacts)**

The proposed project would connect to the municipal sewer system. Impacts related to the capability of on-site soils to accommodate alternative wastewater treatment systems are not anticipated. **(No Impact)**

4.6.2.2 *Seismic Impacts*

The project site is located within the seismically-active San Francisco Bay Area and severe ground shaking is probable during the anticipated life of the project. Future residents of the site would be exposed to hazards associated with severe ground shaking during a major earthquake on one of the region's active faults. The hazard is not unique to the project site because it applies to all locations throughout the greater Bay Area.

The project site includes potentially-liquefiable soils. Design and construction of a future residential development in conformance with a project-specific geotechnical investigation and utilizing standard features such as relatively rigid shallow foundations, a deep foundation system, and/or ground improvement, will ensure that potential hazards from liquefiable soils will be a less than significant. **(Less Than Significant Impact)**

There are no major slopes or hillsides in the vicinity of the site with the potential to result in landslides. **(No Impact)**

4.6.3 Conclusion

Compliance with the standard project conditions set by the City of San José would ensure that future development is designed and constructed to avoid potential soil- and seismic-related hazards. **(Less Than Significant Impact)**

4.7 GREENHOUSE GAS EMISSIONS

This analysis is based in part on the Toxic Air Contaminant and Greenhouse Gas Emissions Assessment prepared for the project by *Illingworth & Rodkin, Inc.* on September 11, 2015. This report is attached as Appendix A of this Initial Study.

4.7.1 Setting

4.7.1.1 *Greenhouse Gas Emissions Overview*

Unlike emissions of criteria and toxic air pollutants, which have regional and local 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 upper atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.2 *Existing Emissions from the Project Site*

Existing development on the project site includes a child care center and surface parking lot that serves both the child care center and the adjacent Tamien Station. The primary sources of greenhouse gas (GHG) emissions from the site are vehicles traveling to and from the child care center as well as electricity and water used by the child care center.

Emissions from vehicles parked on the site in order to access Tamien Station are not considered part of the existing GHG emissions associated with the project site because the vehicle trips are generated by the Station, not the parking lot. The parking lot is an ancillary use that serves the Station. Therefore the baseline GHG emissions from the project site do not include emissions from vehicles traveling to and from the site to access Tamien Station.

Based on the emissions modeling completed for the project with the California Emissions Estimator Model (CalEEMod), the existing child care is estimated to generate approximately 155 metric tons CO_2e[21] per year. Mobile sources (i.e. cars) account for 87 percent of existing GHG emissions.

[21] CO_2e stands for 'equivalent carbon dioxide,' which is a measure used to compare the emissions from various greenhouse gases based upon their global warming potential, with carbon dioxide as the reference GHG with a global warming potential value of 1. Global warming potential is a measure of radiative forcing based on heat absorption capacity and atmospheric lifetime.

4.7.1.3 *Applicable Plans, Policies, and Regulations*

State of California

AB 32, Scoping Plan, and CEQA

In September 2006, Governor Schwarzenegger signed the Global Warming Solutions Act (Assembly Bill (AB) 32), to address California's contribution to global warming. The Act requires that GHG emissions in California be reduced to 1990 levels by 2020. In June 2005, the Governor of California signed Executive Order S-3-05, which identified CalEPA as the lead coordinating State agency for establishing climate change emission reduction targets in California. Under Executive Order S-3-05, the state plans to reduce GHG emissions to 80 percent below 1990 levels by 2050. Additional state law related to the reduction of GHG emissions includes SB 375, the Sustainable Communities and Climate Protection Act (see discussion below).

In December 2008, the California Air Resources Board (CARB) approved the *Climate Change Scoping Plan*, which proposed a comprehensive set of actions designed to reduce California's dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 GHG reduction goal. The board approved the *First Update to the Climate Change Scoping Plan* on May 22, 2014.

The 2014 update defined CARB's climate change priorities for the next five years and laid the groundwork to start the transition to the post-2020 goals set forth in Executive Order S-3-05 and B-16-2012.[22] The 2014 update highlights California's progress toward meeting the near-term 2020 GHG emissions reduction goals and evaluates how to align the State's long-term GHG reduction strategies with other State policy priorities.

The California Natural Resources Agency, as required under state law (Public Resources Code Section 21083.05), has amended the state CEQA Guidelines to address the analysis and mitigation of GHG emissions. Lead Agencies such as the City of San José retain discretion to determine the significance of impacts from GHG emissions based upon individual circumstances. Neither CEQA nor the CEQA Guidelines provide a specific methodology for analysis of GHG emissions and under the amendments to the CEQA Guidelines, a Lead Agency has discretion to determine the methodology used to describe, calculate, or estimate GHG emissions resulting from a project.

Executive Order B-30-15

On April 29, 2015, Governor Edmund G. Brown Jr. issued Executive Order B-30-15, setting a new interim statewide GHG emission reduction target. The purpose of establishing the interim target is to ensure California meets its previously established target of reducing GHG emissions to 80 percent below 1990 levels by 2050, as set forth in Executive Order S-3-05 in 2005. Under Executive Order

[22] Executive Order B-16-2012, issued by Governor Brown in March 2012, calls for expanded infrastructure to support zero emission vehicles and sets benchmarks for future state fleet vehicle purchases of zero emission vehicles. The executive order is available online at: http://gov.ca.gov/news.php?id=17472

B-30-15, the interim target is to reduce GHG emissions to 40 percent below 1990 levels by the year 2030.

As a part of this effort, CARB is required to update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent. CARB will initiate a public process in the summer of 2015 to update the State's Climate Change Scoping Plan. The updated Scoping Plan will provide a framework for achieving the 2030 target and will be completed and adopted by the Air Resources Board in 2016.

Senate Bill 375

Senate Bill 375 (SB 375), also known as the Sustainable Communities and Climate Protection Act of 2008, requires regional transportation plans to include a Sustainable Communities Strategy (SCS) that links transportation and land use planning together into a more comprehensive, integrated process. The SCS is a mechanism for more effectively linking a land use pattern and a transportation system together to make travel more efficient and communities more livable. The result is reduced GHG emissions from passenger vehicles along with other benefits.

The Metropolitan Transportation Commission (MTC) and Associated Bay Area Governments (ABAG) adopted Plan Bay Area in July 2013 and the California Air Resources Board accepted the technical evaluation of the SCS in April 2014. The strategies in the plan are intended to promote compact, mixed-use development close to public transit, jobs, schools, shopping, parks, recreation, and other amenities, particularly with Priority Development Areas (PDAs) identified by local jurisdictions. The project site is within the City Center PDA designated by the City of San José.[23]

Regional

BAAQMD is the regional, government agency that regulates sources of air pollution within the nine San Francisco Bay Area Counties. The BAAQMD *CEQA Air Quality Guidelines* include thresholds of significance for analyzing GHG emissions. The *Guidelines* also outline a methodology for estimating GHGs, including the use of the modeling for direct emissions from land use projects when appropriate.

Envision San José 2040 General Plan

The Envision San José 2040 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.

[23] One Bay Area. *Future Place Type for Priority Development Areas in Santa Clara County*. N.d. Accessed October 29, 2015. Available at: https://www.sanjoseca.gov/DocumentCenter/View/735

The City's GHG Reduction Strategy in the Envision San Jose 2040 General Plan was re-adopted by the City Council in December 2015. The environmental impacts of the GHG Reduction Strategy were analyzed in the 2011 Envision San José 2040 General Plan FPEIR and a 2015 Supplement to the General Plan FPEIR. 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, and the City adopted overriding considerations for identified future impacts associated with buildout of the City's General Plan.

4.7.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1, 2, 8
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1, 2, 8

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

Since the project is consistent with the 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 an its consistency with the GHG Reduction Strategy. Projects that are consistent with the GHG Reduction Strategy would generally have a less than significant impact related to GHG emissions.

4.7.2.1 *Consistency with the San José Greenhouse Gas Reduction Strategy*

The City of San José General Plan contains goals and policies adopted for the purpose of reducing GHG emissions. The measures center around five strategies: energy, waste, water, transportation, and carbon sequestration. Some measures are considered mandatory for all proposed development projects, while others are considered voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects at the discretion of the City. The proposed project's consistency with these measures 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 (GP 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 GHGRS 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 proposed project is consistent with the General Plan land use designation for the site. New structures would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the California Green Building Code (CALGreen). In general the site is very favorable for higher density residential development because it is adjacent to multiple modes of local and regional transit. The project includes pedestrian and bicycle friendly design measures in the General Development Plan to ensure continued access to the Tamien Station from Lick Avenue. Bicycle

parking in a future development would be provided consistent with San José requirements, though the final quantity will be determined at the Planned Development permit stage. Other measures such as electric car charging stations and car sharing spaces would also be determined at the permit stage. Given the proximity to transit and the inclusion of green building measures and bicycle parking, the project would be consistent with the mandatory criteria 1 – 3 described above.

Criteria 4, 5, and 7 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy-intensive use, and the project does not propose vehicle-serving uses. Criteria 6 is not applicable because the project is primarily a residential development and the small retail space would not support a large employer.

Voluntary Criteria

Table 4.7-1 provides a summary of the voluntary criteria and describes the proposed project's compliance with each criterion.

Table 4.7-1 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 rezoning, though they may be added at a later time once final project design is completed for the site development permit application.	☐ Proposed ☒ Not Proposed or ☐ Not Applicable
Use of Recycled Water Use recycled water wherever feasible and cost-effective (including non-residential uses outside of the Urban Service Area) MS-17.2, MS-19.4	The closest recycled water line extends between S. 12th Street and S. 10th Street approximately one mile east of the project site.[24] Due to the lack of proximity of a recycled water line, the project is not anticipated to use recycled water.	☐ Required/ Proposed ☒ Not Proposed or ☐ Not Applicable
TRANSPORTATION AND LAND USE		
Limit parking above code requirements TR-8.4	Project-specific parking ratios would be set in the proposed PD zoning, as detailed in Table 3.1-1 in the project description. The proposed parking ratios are at or below the code requirements for multi-family dwellings (see ***Section 4.16 Transportation*** for a complete discussion of parking). Total parking provided, however, exceeds the City requirement once reductions for proximity to transit are incorporated.	☒ Project is Parked at or below Code Requirements ☐ Project is Parked above Code Requirements or ☐ Not Applicable
Car share programs Promote car share programs to minimize the need for parking spaces TR-8.5	Car sharing programs and parking spaces would be determined as part of the future site development permit application process.	☐ Proposed ☒ Not Proposed or ☐ Not Applicable

[24] South Bay Water Recycling. *Recycled Water Pipeline System.* July 28, 2011. Map.

Table 4.7-1 Voluntary Greenhouse Gas Reduction Strategy Criteria		
Policies	**Description of Project Measure**	**Project Conformance/ Applicability**
Consider opportunities for reducing parking spaces (including measures such as shared parking, TDM, and parking pricing to reduce demand) TR-8.12	The proposed parking ratios are at or below the code requirements for multi-family dwellings.	☒ Proposed ☐ Project Does Not Propose or ☐ Not Applicable

The proposed project is consistent with the mandatory GHG Reduction Strategy goals and policies as well as some of the voluntary policies intended to reduce GHG emissions. **(Less Than Significant Impact)**

4.7.2.2 *Planning Considerations: Impacts to the Project*

One of the anticipated effects of climate change that can be evaluated for a discrete land area is potential sea level rise. Conversely, anticipated effects of climate change such as increased frequency of extreme weather events or ocean acidification cannot be directly correlated to impacts on a specific project site. San José General Plan Policy EC-5.13 requires evaluation of projected sea level rise for projects near the San Francisco Bay or near waterways which discharge to the Bay.

Given that the project site is located many miles south of the San Francisco Bay shoreline, future sea level rise is unlikely to affect the project site. Nevertheless, based on the most recent assessment from the United Nations Intergovernmental Panel on Climate Change, the mean sea level will rise by 0.24 – 0.29 meters, or up to one foot, by 2065 depending on how GHG emissions change.[25] Based on the *Sea Level Rise Viewer* tool maintained by the National Oceanic and Atmospheric Administration, sea level rise of up to six feet above current sea level would not inundate any part of the project site.[26] Therefore, climate change-induced sea level rise is not expected to present an inundation hazard to the project site.

[25] Wong, P.P. et al. *2014: Coastal systems and low-lying areas. In: Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Field, C.B., et al]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 361-409. Table 5-2.
[26] NOAA. *Sea Level Rise and Coastal Flooding Impacts.* Accessed May 27, 2015. Available at: http://coast.noaa.gov/slr/

4.7.3 Conclusion

The proposed project is consistent with the land use assumptions for the site as well as the mandatory and voluntary criteria of the City of San José Greenhouse Gas Reduction Strategy. Therefore, the proposed project would have less than significant GHG emissions impacts. **(Less Than Significant Impact)**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The analysis in this section is based on a Phase I Environmental Site Assessment prepared for the site by *Cornerstone Earth Group* on June 12, 2015 and a Limited Phase II Subsurface Investigation prepared by *AEI Consultants* on January 28, 2016. These reports are available in Appendix D-1 and D-2 of this Initial Study.

4.8.1 Setting

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

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

4.8.1.1 *Historical Land Uses*

The Phase I Environmental Site Assessment included a review of historical aerial photographs, topographic maps, and Sanborn fire insurance maps, to determine the historical land uses of the project site and potential sources of hazardous contamination. The site was historically used for agricultural purposes such as row crops and orchards. By 1939, several cannery structures were present on the site, while orchards and row crops remained on the western and southern portions of the site. A railroad track spur and several additional cannery buildings were added by 1948. The cannery was expanded noticeably during subsequent decades.

Cannery operations appear to have ceased by the early 1980s and by 1988, an increase in exterior stored items and vehicles was apparent. Several non-cannery uses such as auto body shops, trailer repair, and anodizing shops were present on the site during the 1980s. The cannery structures, then containing non-cannery uses, were removed by the early 1990s. The existing parking lot was constructed by 1992 and the child care center was built in 1994. The site has remained largely the same since then.

Since the existing development on the site was constructed in the 1990s, well after asbestos building materials and lead-based paint were prohibited, it is highly unlikely that hazardous building materials such as asbestos or lead-based paint are associated with the child care building on-site.

4.8.1.2 *Previous Site Investigation and Remediation*

A number of the historical land uses and sources of contamination are shown in Figure 4.8-1, following the discussion below.

Soil and Groundwater Sampling (Terratech, Inc., 1987)

A number of Phase I and Phase II site investigations have been completed for the site in the past 30 years. In 1987, *Terratech, Inc.* investigated the site as part of the VTA land acquisition process. Observations revealed useage and storage of several hazardous materials including degreasers, motor oil, lubricants, and anodizing liquids. The report stated that, "discharges of these liquids, especially crankcase drainings, onto the concrete pavements, bare ground and into the drainage system are apparent."[27] Three sumps which captured drainage from the various yard areas and discharged to the City of San José's sewer system were also identified. Four natural gas-powered steam boilers were located on-site, an 18,000 gallon fuel oil underground storage tank (UST) was installed in 1941, and a 500 gallon gasoline UST was located at the cannery. Water supply for the cannery was provided by four on-site supply wells that were 500 to 550 feet deep.

Soil and groundwater testing completed by Terratech in 1987 found elevated concentrations of lead above the California Human Health Screening Level (CHHSL). Copper and zinc were found above background levels but below the EPA regional screening level (RSL). Arsenic and thallium[28] were found well above their RSLs but were within the range of naturally-occurring background levels in California soils. Due to the relatively consistent distribution of arsenic across the site, the arsenic concentrations appear to be representative of background levels. Diesel, benzene, toluene, and xylenes were not detected above laboratory detection limits in soil near the former fuel UST. Gasoline was detected in soil near the former off-site gasoline UST. No petroleum hydrocarbons, volatile organic compounds (VOCs), or cyanide were detected in groundwater. Metals were detected in groundwater but are likely attributable to sediments within the samples.

UST and Sump Removal (1989)

As documented by Santa Clara Valley Water District case closure documents, the three on-site sumps, the 18,000-gallon fuel oil UST, and the off-site 500-gallon gasoline UST were removed in 1989. A total of 900 cubic yards of potentially contaminated soil and 1,850 gallons of groundwater were removed following the excavation of the gasoline UST, and several groundwater monitoring wells were subsequently installed near the UST. A 1997 case closure leader from SCVWD states that "no further action related to the underground tank release is required."

Soil and Groundwater Sampling (Lowney Associates, 2000)

Additional soil and groundwater sampling conducted in 2000 found elevated concentrations of Total Petroleum Hydrocarbons (TPH) as oil in the vicinity of the former railroad track spur. Metal concentrations were detected at background levels, however, lead, mercury, thallium, and nickel were higher than typical background concentrations.

[27] Terratech, Inc. *Report to Santa Clara County Transit District on the Alma Terminal Contamination Investigation.* May 1987. Incorporated by reference in Appendix D-1 of this Initial Study.

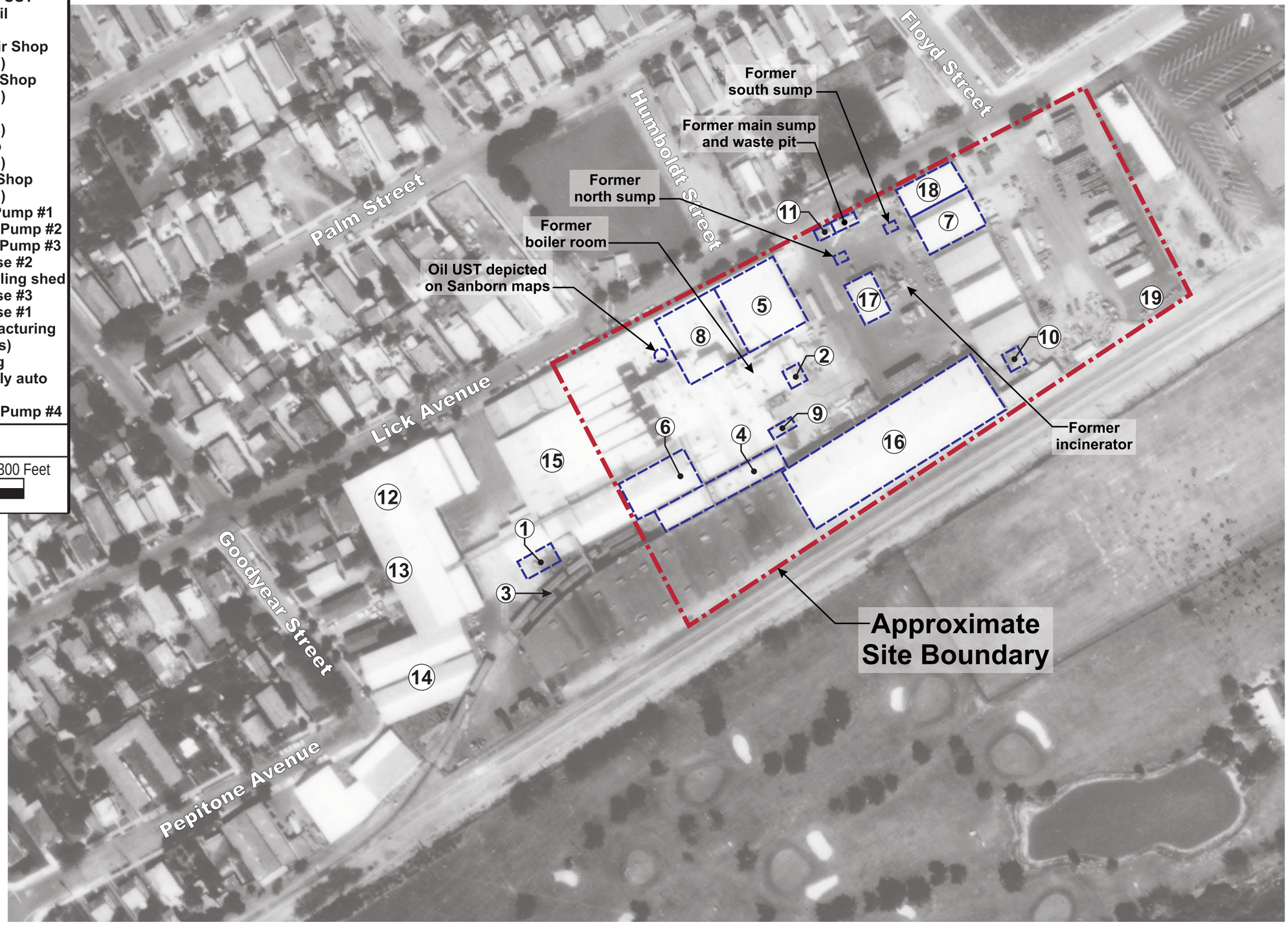
[28] The metal analyses of thallium were performed using EPA test method 6010A, inductively coupled plasma-atomic emission spectroscopy (ICP-AES). Various publications have documented false positive detections of thallium and other metals using the ICP-AES test methods. Subsequent studies showing elevated thallium concentrations also used ICP-AES methods. However, a 2012 study using the new mass spectrometer methodology (ICP-MS) found no cadmium or thallium. As detailed in Appendix D-1 of this Initial Study, it is likely that prior analyses resulted in false-positive laboratory detections or positively biased detections.

1. Former 500 gallon gasoline UST
2. Former 18,000 gallon fuel oil
3. Former Railroad Spur
4. Former Forklift/Truck Repair Shop (post-Cannery; circa 1980's)
5. Former Tank Trailer Repair Shop (post-Cannery; circa 1980's)
6. Former Anodize Shop (post-Cannery; circa 1980's)
7. Former JK Auto Body Shop (post-Cannery; circa 1980's)
8. Former Auto Body Repair Shop (post-Cannery; circa 1980's)
9. Former Pump House/Well Pump #1
10. Former Pump House/Well Pump #2
11. Former Pump House/Well Pump #3
12. Former Cannery warehouse #2
13. Former Cannery crate/cooling shed
14. Former Cannery warehouse #3
15. Former Cannery warehouse #1
16. Cook's Truck Body Manufacturing (post-cannery; circa 1980's)
17. Former box repair building
18. Triumphs Only (presumably auto repair; circa 1980's)
19. Former Pump House/Well Pump #4

Aerial Photograph - 1974

0 150 300 Feet

N



Source: Cornerstone Earth Group. June, 2015.

HISTORICAL LAND USES AND SOURCES OF CONTAMINATION

FIGURE 4.8-1

Off-Site Studies

Several studies were completed in 2010 and 2012 by the City of San José and *Cornerstone Earth Group* for the parcel north of and adjacent to the project site. The results of these studies are summarized in detail in Appendix D-1.

4.8.1.3 *Recognized Environmental Conditions*

Based on previous site investigations, a field reconnaissance, and records searches, the Phase I ESA prepared for the project by *Cornerstone Earth Group* identified the following potential sources of hazardous contamination on the project site:

- Residual contaminants may remain in soil and/or groundwater from an oil UST on the site.
- Prior studies on or near the site have detected concentrations of metals, petroleum hydrocarbons, polyaromatic hydrocarbon (PAH) compounds, and polychlorinated biphenyls (PCBs) in soil that exceeded their respective residential screening criteria.
- Residual pesticides may remain in site soils due to historical use of the site for agricultural purposes.

Due to the presence of hazardous materials on the site, a subsurface investigation was undertaken to further characterize the types and concentrations of soil, groundwater, and soil vapor contamination.

4.8.1.4 *Phase II Limited Subsurface Investigation*

On August 12th and 13th, 2015, *AEI Consultants* conducted a subsurface investigation at the project site, which included ten borings for soil, groundwater, and soil vapor samples. This work, which is described further below, was monitored by a qualified archaeologist from *Far Western Anthropological Research Group* and a Native American representative from *Nototomne Cultural Preservation* so as to avoid impacts to cultural resources. Please refer to ***Section 4.5, Cultural Resources*** for more detail regarding prehistoric and Native American cultural resources.

The subsurface investigation program included the following:

- Three soil borings along the alignment of the on-site portion of the former rail spur.
- One soil boring in the vicinity of the former oil UST, advanced to a depth of 30 feet below ground surface in order to intercept groundwater.
- Six soil borings and temporary soil vapor probes at a depth of five feet in the vicinity of former automotive repair and machining operations.
- Shallow soil samples from each boring.

Additional shallow soil samples were collected on January 8th, 2016 for analysis of organochlorine pesticides. These samples were taken in similar locations to the soil borings advanced on August 12, 2015 and were necessary because the initial analytical run did not include analysis for organochlorine pesticides.

The complete results of this investigation are provided in Appendix D-2 of this Initial Study along with a map showing the soil boring locations. The Limited Phase II Subsurface Investigation report also contains extensive detail pertaining to methodology and quality assurance and control. The results of the sampling are summarized and discussed below.

Soil Samples

Soil samples did not yield PAHs, PCBs, or total petroleum hydrocarbons as gasoline (TPH-g) at concentrations at or above laboratory detection limits. Low levels of seven organochlorine pesticides were detected in soil samples, however these were found at concentrations below the RWQCB environmental screening levels (ESL) for residential direct exposure and construction worker exposure. Petroleum hydrocarbons as diesel (TPH-d) were detected in five of the nine soil samples. One of the samples collected from six inches below ground surface yielded a TPH-d concentration of 140 mg/kg, which is above the ESL of 100 mg/kg.[29]

Total petroleum hydrocarbons as motor oil (TPH-mo) were detected in five soil samples taken from six inches below ground surface. Three of the five detections exceeded the 100 mg/kg ESL at 160, 170, and 400 mg/kg.

Arsenic was detected in all nine soil samples in concentrations ranging from 2.5 to 6.9 mg/kg, which is consistent with background concentrations in the region. Five soil samples yielded elevated concentrations of chromium, cobalt, and nickel, all of which could likely be related to historical activities at the site. Each metal was detected at a maximum concentration of 180, 26, and 210 mg/kg respectively.

Groundwater

One groundwater sample was collected from a depth of 26 feet below ground surface as part of the investigation. The sample was analyzed for TPH and VOCs, and did not yield VOCs or TPH at or above laboratory detection limits.

Soil Vapor

A total of seven soil vapor samples were collected at a depth of five feet below ground surface. Soil vapor samples were analyzed for VOCs including those commonly associate with fuels and industrial operations. Benzene was detected in each soil vapor sample at a maximum concentration of 15 micrograms per cubic meter (µg/m^3). Naphthalene was detected in four of the seven soil vapor samples at a maximum concentration of 89 µg/m^3. Perchloroethylene, also known as 'perc,' PCE,

[29] San Francisco Bay Regional Water Quality Control Board. *2013 Tier 1 ESLs.* December 2013. Available at: http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/ESL/Lookup_Tables_Dec_2013_Summary.pdf

and tetrachloroethylene, was detected in eight of the nine soil vapor samples at a maximum concentration of 60 µg/m^3.

4.8.1.5 *Other Hazards*

The project site is located in an urban area and is not vulnerable to wildland or forest fires.

4.8.1.6 *Applicable Plans, Policies, and Regulations*

Federal Aviation Administration (FAA)

The Norman Y. Mineta San José International Airport is located approximately 3.2 miles northwest of the project site. Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground. For the project site, any proposed structure of a height greater than approximately 220 feet above mean sea level (amsl) is required under FAR Part 77 to submit a *Notice of Proposed Construction or Alteration* (Form 7460-1) to the FAA.[30]

Federal and State Hazardous Materials Laws and Regulations

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and state laws. Key federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, and the Resource Conservation and Recovery Act (RCRA). In California, the U.S. Environmental Protection Agency (EPA) has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (Cal/EPA). In turn, local agencies including the Santa Clara County Department of Environmental Health (SCCDEH) have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Oversight over investigation and remediation of sites impacted by hazardous materials releases can be performed by state agencies, such as DTSC (a division of Cal/EPA), regional agencies, such as the RWQCB, or local agencies, such as SCCDEH. The SCCDEH oversees investigation and remediation Leaking Underground Storage Tank (LUST) sites in San José. Other agencies that regulate hazardous materials include the California Department of Transportation and California Highway Patrol (transportation safety), and Cal/EPA Division of Occupational Safety and Health, better known as Cal/OSHA (worker safety).

[30] City of San José. *Notice Requirement Criteria for Filing FAA Form 7460-1*. N.d. Map.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies specific to hazardous materials are applicable to the proposed project.

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.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

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

4.8.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	1
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐	1, 2, 13, 14
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1, 2
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☒	☐	1, 13
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	15
6. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1, 2
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1
8. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	1, 2

4.8.2.1 *Hazardous Materials Impacts*

The project site is not included on any lists compiled pursuant to Government Code Section 65962.5. Historic USTs have been removed from the site and case closure letters were issued by the SCVWD to confirm their removal.

The San Francisco Bay RWQCB has developed ESLs for over 100 chemicals commonly found at sites with contaminated soil and groundwater. These conservative screening levels are intended to help expedite the identification and evaluation of potential environmental concerns at contaminated sites. There are ESLs established for a range of media (soil, groundwater, soil gas, and indoor air) and a range of concerns (e.g., impacts to drinking water, vapor intrusion, and impacts to aquatic life).[31]

To assess whether chemicals and/or metals on the site pose a potential human health risk to future residential users of the site, concentrations are compared to their respective ESLs for the identified exposure routes. To use the ESLs, potential exposure routes must be identified. Based on the design of the proposed mixed-use transit-oriented development, the following exposure routes were identified in the Limited Phase II Subsurface Investigation:

- Direct contact to on-site soils by future construction workers.
- Direct contact to on-site soils by future residents of the project.
- Exposure to indoor air, which could be impacted due to soil vapors.

Determinations regarding potential for significant health hazards are based on these exposure paths. The Phase II Subsurface Investigation (Appendix D-2) found that there were no hazardous materials detected at or above the construction worker ESLs. Therefore, impacts to construction workers during excavation and grading activities would be less than significant. **(Less Than Significant Impact)**

One soil sample yielded cobalt at a concentration of 26 mg/kg, which is slightly above the residential ESL of 23 mg/kg. In addition, several soil samples contained concentrations of TPH in excess of the residential ESLs. Potentially significant health hazards to future residents of the site from elevated concentrations of cobalt and petroleum hydrocarbons cannot be ruled out absent further characterization or remediation.

Future residents on the site could be exposed to indoor air impacted through vapor intrusion. Three of the soil vapor samples collected yielded naphthalene at concentrations ranging from 50 to 89 $\mu g/m^3$, which is above the modified residential new construction ESL of 36 $\mu g/m^3$. This exposure is also considered potentially significant.

Impact HAZ-1: Future residents of the project site could be exposed to elevated concentrations of cobalt and total petroleum hydrocarbons (TPH) in on-site soils as well as elevated concentrations of naphthalene in indoor air. Long-

[31] San Francisco Bay Regional Water Quality Control Board. *ESL – Environmental Screening Levels*. 2015. Accessed October 13, 2015. Available at: http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.shtml

term exposure to these substances at the observed concentrations could pose potentially significant health risks to residents. **(Significant Impact)**

Due to the elevated concentrations of cobalt, TPH, and naphthalene found on the project site, further assessment and potentially remedial actions would be necessary to avoid significant health risks to future residents. Therefore, the proposed project would include the following mitigation measures:

MM HAZ-1.1: The project applicant shall enter into a Voluntary Cleanup Program with the California Department of Toxic Substances Control, Santa Clara County Department of Environmental Health, or other appropriate oversight agency, to address residual metals contamination and naphthalene vapors prior to issuance of a Planned Development permit.

If remediation is necessary, such work will be conducted through a Work Plan developed by the applicant and approved by the appropriate oversight agency. Any soil excavation activities shall be performed by a licensed hazardous materials contractor and personnel with training in hazardous waste operations (40-hour OSHA Training). If required, in-situ verification soil sampling shall be performed in the remedial excavations, should they be necessary, to confirm that the remaining in-place soil meets residential screening criteria. The excavated soil will be off-hauled for off-site disposal at an appropriate facility. Copies of the approved Work Plan shall be provided to the City of San José Public Works Department and Planning division prior to initiation of grading and excavation.

The applicant shall obtain the Certificate of Completion or No Further Action letter and submit it to the City of San José Director of Planning, Building, and Code Enforcement prior to the issuance of Certificates of Occupancy.

MM HAZ-1.2: A Site Management Plan (SMP) shall be developed to establish management practices for handling contaminated soil or other materials encountered during construction activities. The sampling results shall be compared to appropriate risk-based screening levels in the SMP. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures. The SMP shall be submitted to the City and the appropriate oversight agency for approval prior to commencing construction activities. The SMP shall include the following:

- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;

- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, PCBs, other contamination, etc.) is discovered during excavation or demolition activities;
- Traffic control during site improvements;
- Noise, work hours, and other relevant City regulations;
- Mitigation of soil vapors (if required);
- Procedures for proper disposal of contaminated materials (if required); and
- Monitoring, reporting, and regulatory oversight arrangements.

Implementation of these mitigation measures would ensure sufficient characterization of soils and vapors to rule out health effects to future residents, or remedial actions necessary to achieve the same outcome. With receipt of a Certificate of Completion or a No Further Action letter from the appropriate oversight agency to document the completion of site investigation and remediation, the proposed project would not result in significant health risks to future residents of the site from on-site contamination. **(Less Than Significant Impact With Mitigation)**

4.8.2.2 *Airport Safety Hazard Impacts*

The proposed rezoning would allow building heights up to 65 feet above ground, or up to 180 feet amsl based on an estimated site elevation ranging from 105-115 feet amsl. Since the FAA notification height for the project site is 220 feet amsl, project development would not require FAA review. There are no private airstrips in the vicinity of the site. Therefore, the proposed project would not create hazards related to air traffic. **(No Impact)**

4.8.2.3 *Other Hazards*

The project site is not located near the wildland-urban interface and would not be exposed to significant hazards associated with wildland fires. The proposed project would occur on a developed site within the City of San José and would not create an obstruction to the implementation of emergency response or evacuation plans. **(No Impact)**

4.8.3 Conclusion

With implementation of the mitigation measures identified in this chapter, the proposed project would not result in significant hazards or hazardous material impacts. **(Less Than Significant Impact With Mitigation)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 *Flooding and Inundation*

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM), the project site is located within Flood Zone D. This designation is used for areas in which flood hazards are undetermined, but possible.[32] The adjacent Tamien Station as well as the area between the station and Guadalupe River to the west are located in Flood Zones AH and AO, indicating they are within the 100-year floodplain. Flood depths during a 100-year flood are estimated to be two feet in these areas. The FIRM for the project area is shown in Photo 4.9-1 below.

Dam Failure

Dam failure inundation hazard maps have been prepared by dam owners throughout the Bay Area. The maps for the City of San José show that the project site is in the dam failure inundation hazard zone for Anderson Reservoir, with maximum flood depths ranging from 18-20 feet during a catastrophic failure.[33] Dams managed by the SCVWD such as Anderson Dam are inspected twice each year, they are continuously monitored for seepage and settling, and they are inspected immediately following significant earthquakes. For these reasons, the likelihood of catastrophic dam failure that would impact the site is considered low.[34]

Seiches, Tsunamis, and Mudflows

A seiche is defined as a wave generated by rapid displacement of water within a reservoir or lake, typically due to an earthquake that triggers land movement within the water body or landsliding into or beneath the water body. There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche.

A tsunami is a series of water waves caused by the displacement of a large volume of a body of water, such as an ocean or a large lake. Due to the immense volumes of water and energy involved, tsunamis can devastate coastal regions. There are no bodies of water near the project site that could affect the site in the event of a tsunami.[35] The project area is flat and there are no mountains near the site that will affect the site in the event of a mudflow.

[32] Federal Emergency Management Agency. *Flood Insurance Rate Maps, Nos. 06086C0234H and 06085C0242H.* May 18, 2009. Available at: https://msc.fema.gov/portal
[33] Santa Clara Valley Water District. *Anderson Dam EAP 2009 Flood Inundation Maps.* June 2009. http://www.valleywater.org/Services/AndersonDamAndReservoir.aspx
[34] Santa Clara Valley Water District. *Reservoirs.* 2014. Available at: http://www.valleywater.org/Services/Reservoirs.aspx
[35] Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* Accessed September 22, 2014. Available at: http://quake.abag.ca.gov/tsunamis

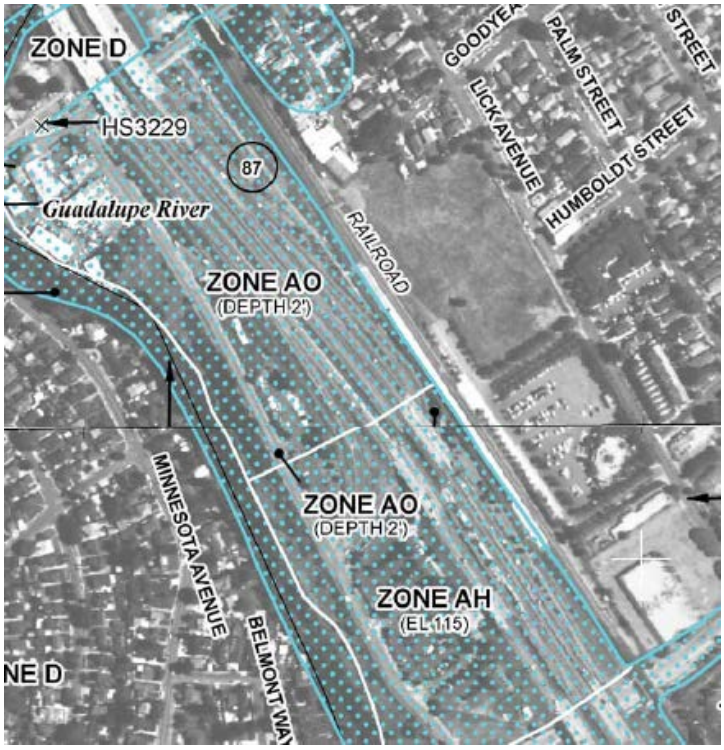


Photo 4.9-1 FEMA Flood Map of the Project Area

4.9.1.2 *Storm 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 the Guadalupe River, which carries stormwater from the storm drains into the San Francisco Bay.

Stormwater from the project site currently drains to inlets lining the loop road. The project site currently contains just over 160,000 square feet of impervious surfaces and 143,410 square feet of pervious, unpaved areas (see Table 4.9-1). There is a 12-inch diameter[36] stormwater pipe in Humboldt Street with a 10-inch lateral that extends onto the northeast corner of the project site.[37] There is also a 15-inch pipe in Lick Avenue that extends from Alma Avenue to approximately 150 feet south of the project site.

4.9.1.3 *Groundwater*

Cone Penetration Tests undertaken for the project's Geotechnical Feasibility Assessment (Appendix C) recorded groundwater between 18 and 20 feet below ground surface (bgs). The highest historical groundwater level in the vicinity of the site has been up to 15 feet bgs. Fluctuations in groundwater levels should be expected during seasonal changes or over a period of years due to precipitation changes, changes in drainage patterns, and irrigation.

[36] Stormwater pipe measurements in this section refer to the diameter of the pipe unless otherwise noted.
[37] City of San José. *Storm Drain*. Map. Accessed July 17, 2015. Available at: http://csj-mapsgallery.appspot.com/index.html

4.9.1.4 *Water Quality*

The project site is located within the 170 square mile Guadalupe River watershed and stormwater from the project site drains to the Guadalupe River. The water quality of the river 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, such as oil, grease, asbestos, lead, and animal wastes. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains.

Under Section 303(d)[38] of the 1972 Clean Water Act, states are required to identify impaired surface water bodies and develop total maximum daily loads (TMDLs) for contaminants of concern.[39] The TMDL is the quantity of pollutant that can be safely assimilated by a water body without violating water quality standards. Listing of a water body as impaired does not necessarily suggest that the water body cannot support the beneficial uses; rather, the intent is to identify the water body as requiring future development of a TMDL to maintain water quality and reduce the potential for future water quality degradation. The Guadalupe River watershed is listed by the U.S. Environmental Protection Agency as an impaired water body for urban runoff/storm sewer, illegal dumping (trash), and mercury from mine tailings.

4.9.1.5 *Applicable Plans, Policies, and Regulations*

Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set by the U.S. EPA and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's 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, which for the San José area is the San Francisco Regional Water Quality Control Board (RWQCB).

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 prior to commencement of construction.

[38] The Clean Water Act, Section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.
[39] U.S. Environmental Protection Agency. *California 303(d) Listed Waters.* Accessed October 29, 2015. http://ofmpub.epa.gov/waters10/attains_impaired_waters.impaired_waters_list?p_state=CA&p_cycle=2010

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

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). 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).

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 of San José's Policy No. 6-29 requires all new and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) such as LID measures to treat stormwater runoff. These measures are also utilized to reduce the total amount of stormwater runoff from a site. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces. Potential project site design measures include, but are not limited to:

- Constructing sidewalks, walkways, and/or patios with pervious pavement systems.
- Constructing driveways, bike lanes, and/or uncovered parking lots with permeable surfaces
- Conserving natural areas, including existing trees, other vegetation, and soil.

City of San José Grading Ordinance

All development projects, whether subject to the General Construction 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 15 to April 15), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

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 MMRP. 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).

Based on the SCVURPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[40]

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies specific to hydrology and water quality are applicable to the proposed project.

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

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

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

Policy EC-4.1: Design and build all new or remodeled 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 IN-3.7: Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties.

[40] Santa Clara Valley Urban Runoff Pollution Prevention Program. *Hydromodification Management Plan Applicability Maps.* N.d. Accessed October 29, 2015. Available at: http://www.scvurppp-w2k.com/hmp_maps.htm

Policy IN-3.9: Require developers to prepare drainage plans for proposed developments that define needed drainage improvements per City standards.

Policy MS-3.4: Promote the use of green roofs (i.e., roofs with vegetated cover), landscape-based treatment measures, pervious materials for hardscape, and other stormwater management practices to reduce water pollution.

4.9.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐	1, 2, 3
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐	1
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☒	☐	1, 2
4. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	1, 2, 3
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐	1, 2, 3
6. Otherwise substantially degrade water quality?	☐	☐	☒	☐	1, 2, 3
7. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	16

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	16
9. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☒	☐	1, 2, 3
10. Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	1, 2, 3

4.9.2.1 *Flooding and Inundation Impacts*

Based on a review of the project site conditions and the effective floodplain in the area, the project site is not located in a 100-year floodplain.[41] Therefore, the proposed project would not place housing or structures that could impede flows within a 100-year flood hazard area. **(No Impact)**

Dam Failure

The project site is located in the dam failure inundation area of Anderson Dam. Though it would be subject to deep inundation should the Anderson Dam fail catastrophically, the dam is inspected twice a year by the SCVWD in the presence of representatives from the California Division of Safety of Dams and the Federal Energy Regulatory Commission. The potential for the failure of this dam to pose a hazard to future residents of the project site is extremely remote, and reservoir levels have been lowered to maintain an additional level of safety. Therefore, the proposed project would not expose future residents of the site to significant risk of flooding or inundation resulting from dam failure. **(Less Than Significant Impact)**

Seiches, Tsunamis, and Mudflows

As described in *Section 4.9.1.2*, the project site is not located near any bodies of water or hillsides. Therefore, there is no potential for future development on the site to be subject to inundation be seiche, tsunami, or mudflow. **(No Impact)**

4.9.2.2 *Storm Drainage Impacts*

The proposed rezoning and future redevelopment of the site is estimated to increase impervious surfaces by just under 65,000 square feet, or 1.5 acres. The increase would result primarily from development on the vacant northern portion of the site, which is almost entirely pervious in the existing condition. Details regarding the project's changes to impervious and pervious surfaces are shown in Table 4.9-1 below, which is based on the conceptual site plans submitted for the project's rezoning application.

[41] Rosenblatt, Lee. P.E. Principal, Carlson, Barbee, and Gibson, Inc. Personal Communication. June 16, 2015.

Table 4.9-1 Pervious and Impervious Surfaces On-Site						
Site Surface	**Existing/Pre-Construction (square feet)**	**% of Total**	**Project/Post-Construction (square feet)**	**% of Total**	**Difference (square feet)**	**Δ %**
Impervious						
Roof Areas	12,850	4	148,900	38	136,050	34
Parking	84,810	28	0	0	-84,810	-28
Sidewalks, Patios, Paths, etc.	16,250	6	35,800	12	19,550	6
Streets (public)	46,140	15	0	0	-46,140	-15
Streets (private)	0	0	40,100	13	40,100	13
Subtotal	*160,050*	*53*	*224,800*	*74*	*64,750*	*21*
Pervious						
Landscaped Areas	0	0	78,660	26	78,660	26
Pervious Paving	0	0	0	0	0	0
Other Pervious Surfaces	143,410	47	0	0	-143,410	-47
Subtotal	*143,410*	*47*	*78,660*	*26*	-64,750	-21
TOTAL	303,460	100	303,460	100		
Note: Minor discrepancies may occur due to rounding.						

As further detailed in *Section 4.9.2.3* below, future development allowed under the proposed project would be required to implement stormwater treatment and drainage measures consistent with City of San José Policy 6-29 and provision C.3 of the MRP for post-construction stormwater treatment. Stormwater collection facilities such as biotreatment cells and flow-through planters would be designed to collect stormwater runoff and connect to the City's existing stormwater infrastructure. These facilities are designed, or "numerically-sized," to capture projected stormwater volumes during storm events so as to avoid overflow and flooding. They also reduce the rate of runoff compared to traditional stormwater drainage systems by allowing water to flow through various soils and layers of rock before connecting to the storm system.

The project's on-site storm drainage system would connect to the existing storm drain system adjacent to the entrance to Tamien Station. Based on the project's conceptual stormwater control plan, the project would convert two existing catch basins to manholes with high-flow bypasses. This system, which ultimately drains to the Guadalupe River, would not need to be substantially expanded to accommodate runoff from the proposed project. Therefore, the proposed project would not result in stormwater runoff which would exceed the capacity of existing stormwater drainage systems or provide substantial additional sources of polluted runoff. **(Less Than Significant Impact)**

4.9.2.3 *Groundwater Impacts*

With implementation of the proposed project, the quantity of impervious surfaces on the project site would increase to 74 percent, compared with 53 percent in the existing condition. The project site, which is within a confined area of the Santa Clara Valley Groundwater Basin, does not currently contribute to recharging of the groundwater aquifers used for water supply and this condition will not

change once the proposed development is complete.[42] As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less Than Significant Impact)**

4.9.2.4 *Water Quality Impacts*

Short-Term Construction-Related Impacts

The proposed project would disturb more than one acre of land, therefore, construction of the proposed project would be required to comply with the NPDES General Permit for Construction Activities. Demolition and construction activities would temporarily increase the amount of debris on-site and grading activities would increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. As a result, construction activities on-site would result in a temporary increase in pollutants in stormwater runoff during precipitation events. The proposed project would incorporate the following standard project conditions, which are based on RWQCB Best Management Practices and required of all construction projects in San José. These conditions are required to be implemented prior to and during earthmoving and demolition activities, and continue until construction is complete.

Standard Project Conditions:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.

[42] Santa Clara Valley Water District. *2012 Groundwater Management Plan*. 2012. Figure 2-3. Available at: http://www.valleywater.org/services/groundwater.aspx

- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.

- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

- A Storm Water Permit will be administered by the State Water Resources Control Board (SWRCB). Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB Best Management Practices.

- The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the SWRCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

Implementation of these standard measures would avoid significant construction water quality impacts. **(Less Than Significant Impact)**

Long-Term Operational Impacts

Future development allowed under the proposed project would create and/or replace more than 10,000 square feet of impervious surface area on the site and would be required to comply with the City of San José's Post-Construction Urban Runoff Policy (Council Policy 6-29) and the MRP. Council Policy 6-29, which implements the MRP, requires all new and redevelopment projects meeting the criteria set forth in the policy to implement post-construction BMPs and TCMs to treat stormwater runoff. Consistency with this policy is typically determined through the submittal of stormwater treatment plans to the San José Public Works Department prior to approval of a Planned Development permit.

The project's conceptual stormwater control plan includes numerically-sized LID treatment measures (e.g. bioswales, flow-through planters, etc.) to treat stormwater runoff from the project site. These measures, which are primarily intended to improve water quality, also reduce the effects that increased impervious surfaces can have on a City's storm drainage capacity and infrastructure. The final location of all treatment measures would be determined with final project design. The preliminary stormwater control plan is subject to review by the City of San José Department of Public Works, which would ensure consistency with Council Policy 6-29 and the Municipal Regional

Permit. Therefore, implementation of the proposed project would not have significant long-term impacts to water quality from stormwater runoff. **(Less Than Significant Impact)**

4.9.3 Conclusion

Future development allowed under the proposed project would increase impervious surfaces on the project site, increasing the overall volume of stormwater runoff from the site. Such runoff can negatively impact local water quality if left untreated. The proposed project includes a conceptual stormwater control plan in conformance with the NPDES Municipal Regional Permit and San José Council Policy 6-29. With implementation of the BMPs identified in this chapter to mitigation stormwater runoff during construction, future development allowed by the proposed rezoning would not have significant impacts on hydrology or water quality. **(Less Than Significant Impact)**

4.10 LAND USE

4.10.1 Setting

The nearly 10-acre site is located between the Tamien Transit Station and Lick Avenue in the City of San José (APN 434-13-040). Existing uses on the site consist of a child care center, a surface parking lot, and an undeveloped area currently used for equipment staging.

The project area includes a mix of land uses but is primarily residential, with mixed commercial and light industrial uses located along Lick Avenue at the intersections with Humboldt Street and Floyd Street. There is an undeveloped parcel adjacent to the north of the site, which is planned to be a public park. Single- and multi-family residences can be found east of the site along with a senior housing complex along Lick Avenue. There is a 10 – 11 story residential building on the parcel south of the project site at West Alma Street and Lick Avenue.

4.10.1.1 *Land Use Designation and Zoning*

General Plan

The project site is designated *Urban Residential* in the City of San José General Plan. This designation allows for medium density residential development and a broad range of commercial uses within identified Urban Villages, Specific Plan areas, or in close proximity to transit. The allowable density/intensity for mixed-use development is determined using an allowable FAR (1.0 to 4.0) to better address the urban form and potentially to allow fewer units per acre if in combination with other uses such as retail or office. Developments in this designation would typically be three to four stories of residential or commercial uses over parking.

Zoning

The zoning district for the site is *LI - Light Industrial*, which is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Examples of typical uses for this designation are warehousing, wholesaling, and light manufacturing. Sites designated light industrial may also contain service establishments that serve only employees of businesses located in the industrial areas. The maximum building height for *Light Industrial* uses is 50 feet above grade.

4.10.1.2 *Santa Clara Valley Habitat Plan*

The project site is located within the Covered Area of the Santa Clara Valley Habitat Plan (SCVHP). The project site is designated *Urban Development Equal to or Greater Than Two Acres Covered* in the SCVHP. Two land covers, as defined in the SCVHP, apply to the site: the northern portion of the site beyond the loop road is considered *Golf Courses/Urban Parks* whereas the remainder of the site is *Urban-Suburban.* The portion of the site designated *Golf Courses/Urban Parks* is within Fee Zone C (Small Vacant Sites Under 10 Acres) of the SCVHP.

4.10.1.3 *Applicable Plans, Policies, and Regulations*

Residential Design Guidelines

The Residential Design Guidelines establish a framework for private residential units in San José and reinforce guidelines established in the General Plan. The *Residential Design Guidelines* address a variety of areas, including street frontage, perimeter setbacks, parking, landscaped areas, building design, and street design, that ultimately influence how developers and residents view and interact with one another in the City of San José.

Tamien Station Area Specific Plan

In 1995, the City of San José adopted the Tamien Station Area Specific Plan, which was intended to guide the development of vacant and underutilized sites in close proximity to Tamien Station. This Plan identifies a number of high density housing sites with an approximate capacity of up to 1,700 dwelling units, adjacent to existing neighborhoods consisting of older single-family housing and large, relatively new condominium and apartment projects. Careful attention was given to planning station area housing, a park, small scale commercial uses and a child care center within walking distance of heavy and light rail transit facilities.

The Specific Plan included a number of goals and objectives intended to promote transit ridership, create a pedestrian-friendly livable community, and ensure neighborhood compatibility. Under the Specific Plan, the project site is located in the Transit Core Subarea and was shown on the land use plan as *Public/Quasi-Public* and *Public Park Open Space*. The existing on-site child care center built by the Santa Clara County Transportation Agency (now the Valley Transportation Authority) was incorporated as part of the vision for the project site as an area providing community facilities and parks. Although the site's land use designation was changed to *Urban Residential* in 2011 with adoption of the *Envision San José 2040 General Plan*, the policies and design guidelines set in the Specific Plan remain in effect.

The Specific Plan included the following policies which are applicable to the proposed project:

<u>Land Use Policies</u>

1. Housing Variety. A range of high density housing types suitable for a variety of household sizes is encouraged. A mix of rental and ownership housing is also encouraged.

6. LRT Commercial. A maximum of 5,000 square feet of commercial uses may be developed in a single area within the Tamien Station LRT parking lot. Commercial uses should not interfere with the normal operation of the multi-modal station.

<u>Design Policies</u>

1. Residential Design Guidelines. New residential development should conform with the Residential Design Guidelines of the City of San José unless otherwise stipulated in the following policies.

2. Security. Residential and mixed use development should be designed to enhance the security of residents by avoiding potential hiding places, by providing adequate light (both on-site and off-site), and by creating space that is actively used and observable.

3. Building Orientation to Streets and Park. Residential development within the Transit Core Subarea should have a strong "street presence" toward Lick Street and Palm Avenue and also orient to the proposed public park. Buildings should have front entries oriented towards these streets or the park. Parking, parking structures or the rear of buildings should not face Lick or Palm Avenues or the park.

4. Building Design. Building design should promote a visually diverse and rich fabric, complement the existing neighborhood scale, and reinforce the pedestrian orientation of the Tamien Station area. To help larger structures maintain a human scale typical of smaller buildings and to create pedestrian interest, architectural treatments of building facades and roofs should include sufficient articulation and variation to create an impression of individual units or clusters of units compatible with the existing neighborhood and an active pedestrian environment. The use of sloping roofs, decorated parapets, varying floor planes, different but related ornamental elements, balconies, porches, bay windows and other architectural elements is encouraged to achieve variety and articulation. All mechanical equipment should be screened from public view.

11. Maximum Building Heights – West Side of Lick Avenue. Buildings on parcels located to the west of Lick Avenue (excluding those facing Pepitone Avenue) are allowed a maximum height of 65 feet; to encourage visual diversity, however, the height may be increased to 90 feet and limited to a few building elements located at least 200 feet from any single-family neighborhood. Development height should be limited to 25 feet within 25 feet of a property line adjacent to or opposite (i.e., across the street from) a property planned and developed with lower density residential uses such as single-family dwellings or duplexes. Development height may gradually increase one foot for every foot of horizontal distance beyond the original 25 feet up to a maximum of 65 feet.

12. Privacy and Shade. Structures taller than 30 feet should be designed to avoid significant privacy and shade impacts on adjacent single-family or duplex neighborhoods. No windows in these taller structures should have a direct line of sight into any single-family or duplex rear yard.

16. Residential Setback from Lick and Alma Avenue. Residential structures developed along Lick A venue should maintain a setback of no less than 15 feet and no more than 25 feet. Residential structures developed along Alma Avenue should maintain a setback between five and 20 feet from the top of slope of the adjacent right-of-way. Porches, decks, and stairways may encroach into this setback up to a maximum of 60% of the total setback area. Setback areas should be well landscaped with low hedges, trees, and flowering shrubs that create diversity and interest along the street.

18. Parking Standards. Parking standards for new residential and mixed use development in the Transit Core Subarea should comply with the parking requirements of San Jose's Zoning Ordinance. Since the Transit Core Subarea contains major transit facilities, parking reductions may be permitted if supplemental parking need studies warrant such a reduction based on transit ridership, pedestrian use of commercial facilities, shared parking, or other appropriate factors.

20. Treatment of Parking Facilities. Parking facilities should not be generally visible from Alma Avenue, Lick Avenue, the Caltrain entry drive, or the park. Driveway curb cuts and garage entries should be few to avoid detracting from the pedestrian environment. Parking stories located beneath buildings should be depressed and should not rise above grade more than four feet. Porches, stairways, and other architectural treatments should be used to help screen parking story openings other than those necessary for driveways. Landscaping may be used to supplement the screening provided by architectural treatments. Parking may be located at or above grade if the parking area will be encapsulated by ground-level commercial or residential uses. Because blank walls tend to depress pedestrian environments, blank walls more than four feet high should not be used to screen parking areas from the street.

22. On-Site Open Space. A system of attractive, on-site open spaces and common areas should be integrated into all new residential and mixed use projects to create comfortable areas for people to meet, interact and enjoy open space amenities. Usable common open space and private outdoor open space should, at a minimum, be provided at levels required in the Residential Design Guidelines. Common open space may be reduced on site if an equivalent area is dedicated and improved as a public park.

25. Landscape Plans. Landscape plans and landscaping for public and private development should conform to the City of San Jose Landscape and Irrigation Guidelines. Tree species used in landscaping should be similar to those found in adjacent neighborhoods.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies specific to land use are 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-1.12: 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-1.22: Include adequate, drought-tolerant landscaped areas in development and require provisions for ongoing landscape maintenance.

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-2.7: Design private streets to appear and function like public streets. Include street trees and sidewalks, and prohibit gated communities that restrict connectivity. Promote security at the building face rather than at the street.

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-4.5: For new development in transition areas between identified Growth Areas and non-growth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

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-10.3: Require that development visible from freeways (including U.S.101, I-880, I-680, I-280, SR17, SR85, SR237, and SR87) be designed to preserve and enhance attractive natural and man-made vistas.

Policy ES-2.11: Support access to quality, affordable early childhood care and education for all San José children and families to promote early literacy and school readiness.

Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, child care, restaurants and retail goods and services that serve employees of these businesses and nearby businesses.

Policy IE-1.6: Plan land uses, infrastructure development, and other initiatives to maximize utilization of the Mineta San José International Airport, existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART and Caltrain), Light-Rail and Bus Rapid Transit facilities, and the roadway network. Consistent with other General Plan policies, promote development potential proximate to these transit system investments compatible with their full utilization. Encourage public transit providers to serve employment areas.

Policy MS-10.6: Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.

4.10.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Physically divide an established community?	☐	☐	☐	☒	1
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	1-3
3. Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☒	☐	10

4.10.2.1 *Impacts to Established Communities*

The proposed project would rezone a developed site to accommodate the future development of medium- to high-density mixed-use residential on the site. The project site is located within the existing urban envelope of San José and the project would not construct any new roads or barriers that would divide an established community. **(No Impact)**

4.10.2.2 *Land Use Compatibility*

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to people 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 people or development introduced onto the site by the project. Both of these circumstances are aspects of land use compatibility. 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 significant effects on human health and safety.

Land Use Impacts From the Project

The project site is located in an urban setting with vacant land and apartments to the south, mixed residential, a planned park, and commercial/industrial uses to the east and north, and a transit station and highway to the west. Construction of the proposed project would allow more residential and commercial uses in the area, consistent with the existing land uses in the community. The public park planned for the vacant land north of the site could present a potential source of land use incompatibility. Residential units fronting onto the park, if they include large windows or balconies, could raise privacy and visual intrusion concerns for both future residents and park users. The

project's interface with the planned park would be reviewed at the Planned Development permit stage as part of the City's design review process.

The proposed buildings would be taller and more massive than the existing development on the east side of Lick Avenue. Site development standards in the proposed *PD* zoning, however, would include minimum building setbacks of 15 feet from public streets, 10 feet from the property line and reburial area, and eight feet from the proposed private road.[43] These setbacks would minimize the visual intrusion of future development on existing land uses on the east side of Lick Avenue.

Residential development on the site would increase ambient noise levels in the project area from vehicles and residents of the site. As described in ***Section 4.12, Noise***, the increases in ambient noise from the project would be less than significant. Construction of the proposed project would result in temporary noise and air quality impacts to the nearby residential development. ***Sections 4.12, Noise*** and ***4.3, Air Quality*** of this Initial Study discuss these impacts in detail and include measures to reduce these impacts to less than significant levels.

The General Plan FPEIR concluded that land use conflicts, including impacts to adjacent residential development and existing businesses, would 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. Future buildings constructed under the proposed zoning would be reviewed for conformance with the design parameters outlined in the proposed Planned Development zoning, zoning code and applicable City design guidelines, and General Plan and Specific Plan policies. With the incorporation of the mitigation measures identified in this Initial Study for air quality and noise, the proposed project would not result in any significant environmental impacts to nearby land uses. **(Less Than Significant Impact)**

Land Use Impacts to the Project

The proposed project would construct multi-family residential units in an area already developed with other residences (both single- and multi-family units). As discussed in the respective sections of this Initial Study, potentially significant noise and air quality impacts to future residents of the site could occur due to the nearby Tamien Station, Highway 87, and to a lesser extent, Lick Avenue. In addition, on-site soils contain elevated levels of hazardous contaminants due to historical uses of the site. Implementation of mitigation measures identified in ***Sections 4.3, Air Quality, 4.8, Hazards and Hazardous Materials,*** and ***4.12, Noise*** of this Initial Study would reduce these impacts to less than significant levels. Therefore, environmental impacts to future residents of the site resulting from surrounding land uses would be less than significant. **(Less Than Significant Impact)**

[43] Setbacks are measured from the back of walk.

4.10.2.3 *Consistency With Adopted Land Use Plans and Policies*

The proposed residential and commercial densities are consistent with the *Urban Residential* General Plan designation for the site. Since the project is not consistent with the zoning for the site, a *Planned Development* rezoning is proposed to allow mixed uses and project-specific development standards (e.g. setbacks), as well as to increase the maximum height on the site to 65 feet above grade. With approval of this rezoning, the proposed project would be consistent with the General Plan and zoning designations for the site.

The proposed minimum setbacks and maximum building height (65 feet above grade) are consistent with the Tamien Station Area Specific Plan design guidelines for the project site. The project is consistent with the overall goals and policies of the Specific Plan because it would increase residential densities near transit in a pedestrian-oriented environment with general retail space to serve residents and transit users.

The proposed project would be subject to design review by the City of San José staff prior to consideration of the project for approval. This process would ensure the project's consistency with the General Plan policies and Specific Plan goals, objectives, and policies detailed in this chapter. **(Less Than Significant Impact)**

Santa Clara Valley Habitat Plan

As discussed in detail in ***Section 4.4, Biological Resources***, future development allowed under the proposed rezoning would be required to comply with the provisions of the SCVHP. Compliance with the SCVHP would include payment of fees for the development of two acres of land designated *Golf Courses/Urban Parks*. The project would also pay nitrogen deposition fees for new vehicle trips generated by the project. Compliance with these requirements would ensure project consistency with the SCVHP. **(Less Than Significant Impact)**

4.10.3 Conclusion

With implementation of the mitigation measures identified in this Initial Study, the proposed project would not result in significant land use compatibility impacts. The project would also be generally consistent with applicable plans and policies that have been adopted for the purpose of mitigating or avoiding environmental impacts. **(Less Than Significant Impact)**

4.11 MINERAL RESOURCES

4.11.1 Setting

Extractive resources known to exist in and near the Santa Clara Valley 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. Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation. The project is within a developed urban area and does not contain any known or designated mineral resources.

4.11.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	1, 2
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1, 2

4.11.2.1 *Mineral Resources Impacts*

The project site contains a child care center and surface parking lot and is not located on any known mineral resource deposits. Construction of residential units and transit-serving retail space on the site would not cause the loss of availability of a known mineral resource. **(No Impact)**

4.11.3 Conclusion

The project would not result in any impacts to mineral resources. **(No Impact)**

4.12 NOISE

The following analysis is based in part on a noise assessment prepared for the project by *Illingworth & Rodkin, Inc.* This report is attached as Appendix E of this Initial Study.

4.12.1 Setting

4.12.1.1 *Principles of Noise and Vibration*

Noise

Noise may be defined as unwanted sound, and is usually objectionable when it becomes disturbing or annoying. The objectionable nature of sound can be caused by its pitch or its loudness. Pitch is the height or depth of a tone or sound, depending on the relative frequency of the vibrations by which it is produced. Higher pitched signals sound louder to humans than sounds with a lower pitch. Loudness is intensity of sound waves combined with the reception characteristics of the ear. Intensity may be compared with the height of an ocean wave in that it is a measure of the amplitude of the sound wave.

A decibel (dB) is measured based on the relative amplitude of a sound. Ten on the decibel scale marks the lowest sound level that a healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis such that each 10 decibel increase is perceived as approximately a doubling of loudness. The California A-weighted sound level, or dBA, gives greater weight to sound frequencies to which the human ear is most sensitive.

Sensitivity to noise increases during the evening and at night because excessive noise interferes with the ability to sleep. Twenty-four hour descriptors have been developed that emphasize quiet-time noise events. The Day/Night Average Sound Level, L_{dn}, is a measure of the cumulative noise exposure in a community. It includes a 10 dB addition to noise levels from 10:00 PM to 7:00 AM to account for human sensitivity to night noise.

Construction Noise

Construction is a temporary source of noise that impacts residences and businesses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 90 to 95 dBA L_{max} at a distance of 50 feet. Hourly average construction-generated noise levels during busy construction periods are approximately 81 to 88 dBA L_{eq} measured at a distance of 50 feet from the site. Construction-generated noise levels drop off at a rate of about six dBA per doubling of distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors.

Groundborne Vibration

Ground vibration consists of rapidly fluctuating motions or waves, the amplitude of which is typically quantified as Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. Thresholds of perception, annoyance, or structural damage are represented in inches per second PPV (in/sec PPV). Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, or stacked dishes. The rattling sound can give rise to exaggerated vibration complaints, even though there is very little risk of actual structural damage.

Human response to ground vibration has been correlated best with the velocity of the ground. The velocity of the ground is expressed on the decibel scale. The reference velocity is 1×10^{-6} in/sec RMS, which equals 0 VdB, and 1 in/sec equals 120 VdB. Although not a universally accepted notation, the abbreviation "VdB" is used in this document for vibration decibels to reduce the potential for confusion with sound decibels.

Construction Vibration

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. Due to the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and is almost exclusively to assess the potential of vibration to induce structural damage.

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 physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as people in an urban environment, may tolerate a higher vibration level.

Structural damage can be classified as cosmetic only, resulting minor cracking of building elements, or as severe, threatening 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 structural damage to the building. Construction-induced vibration that can be detrimental to the building is very rare and has only been observed in instances where the structure is at a high state of disrepair and the construction activity occurs immediately adjacent to the structure.

4.12.1.2 *Existing Noise and Vibration Environment*

Noise

The predominant noise sources affecting the site are vehicles on Highway 87 and trains entering and exiting the adjacent Tamien Station. Other sources of ambient noise include vehicle traffic on Lick Avenue and airplanes associated with the Mineta San José International Airport.

A noise monitoring survey was conducted between July 15 and July 17, 2015 to document existing noise conditions at the project site and surrounding areas. The survey included two long-term and two short-term noise measurements, the locations of which are shown in the image below.

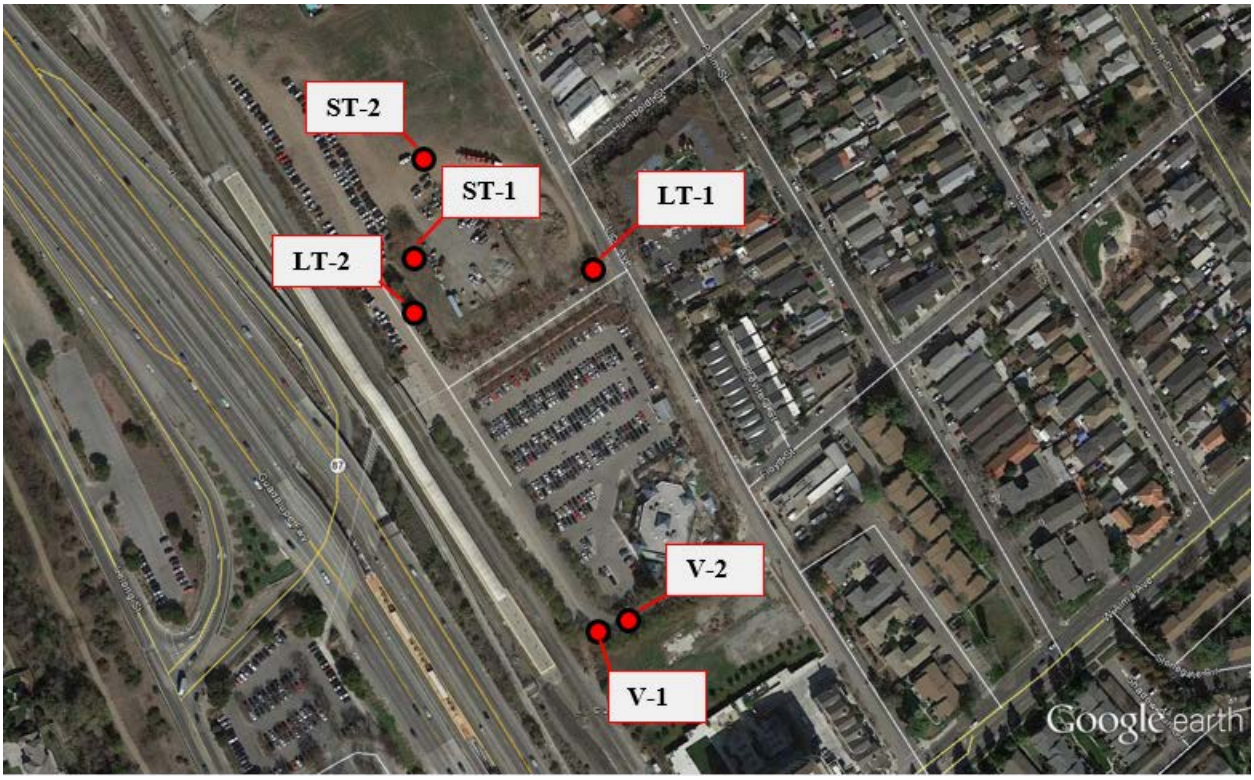


Photo 4.12-1 Noise and Vibration Measurement Locations

Hourly average noise levels at LT-1 ranged from 61 to 67 dBA L_{eq} during the day and from 56 to 67 dBA L_{eq} during the night. The overall day-night average noise level at this location was 70 dBA L_{dn}. Hourly average noise levels at LT-2 ranged from 59 to 67 dBA L_{eq} during the day and 56 to 67 dBA L_{eq} at night. The calculated day-night average noise level at LT-2 was 71 dBA L_{dn}.

Two attended short-term noise measurements were made to complete the noise survey. The maximum noise level detected was 73 dBA L_{max} at ST-1. For complete data gathered from the long- and short-term noise measurement locations, refer to Appendix E.

Vibration

Groundborne vibration at the site results from railroad train pass-bys. Vibration measurements were made on Friday, July 17, 2015, at two locations approximately 65 and 96 feet east of the nearest railroad track (see Photo 4.12-1). During the measurement period, five passenger trains passed the site. No freight trains were observed during this period, likely because freight trains generally run during non-commute hours when the tracks are available.

Vibration levels at V-1 ranged from 63 to 65 VdB, while the levels at V-2 were 58 to 61 VdB. These levels fall below the Federal Transit Administration's (FTA's) 72 VdB "frequent events" criteria for a general vibration assessment and below FTA's criteria for conducting a detailed vibration analysis. These low levels are generally attributed to the slow speeds at which the trains enter and exit Tamien Station.

4.12.1.3 *Applicable Plans, Policies, and Regulations*

Federal Transit Administration Vibration Limits

The U.S. Department of Transportation (DOT) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 4.12-1, below. Note that there are criteria for frequent events (more than 70 events of the same source per day), occasional events (30 to 70 vibration events of the same source per day), and infrequent events (less than 30 vibration events of the same source per day).

Table 4.12-1 Groundborne Vibration Impact Criteria

Land Use Category	Groundborne Vibration Impact Levels (VdB re 1 µinch/sec, RMS)		
	Frequent Events[1]	Occasional Events[2]	Infrequent Events[3]
Category 1 Buildings where vibration would interfere with interior operations.	65 VdB[4]	65 VdB[4]	65 VdB[4]
Category 2 Residences and buildings where people normally sleep.	72 VdB	75 VdB	80 VdB
Category 3 Institutional land uses with primarily daytime use.	75 VdB	78 VdB	83 VdB

1. "Frequent Events" is defined as more than 70 vibration events of the same source per day. Most rapid transit projects fall into this category.
2. "Occasional Events" is defined as between 30 and 70 vibration events of the same source per day. Most commuter trunk lines have this many operations.
3. "Infrequent Events" is defined as fewer than 30 vibration events of the same kind per day. This category includes most commuter rail branch lines.
4. This criterion limit is based on levels that are acceptable for most moderately sensitive equipment such as optical microscopes. Vibration sensitive manufacturing or research should always require detailed evaluation to define the acceptable vibration levels. Ensuring low vibration levels in a building requires special design of HVAC systems and stiffened floors.

2014 State Building Code, Title 24, Part 2

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 dB DNL or CNEL in any habitable room.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José. The City's noise and land use compatibility guidelines are shown in Table 4.12-2, below.

Table 4.12-2 General Plan Land Use Compatibility Guidelines (GP Table EC-1)

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

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

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

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

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). For single-family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.

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 nonresidential land uses to 55 dBA L_{dn} at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

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-1.9: Require noise studies for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART, or other single-event noise sources, implement mitigation so that recurring maximum instantaneous noise levels do not exceed 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other rooms.

Policy EC-2.1: Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural

design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

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

Municipal Code – Operational Standards

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at any property line of residential, commercial, or industrial properties as shown in Table 4.12-3.

Table 4.12-3 City of San José Zoning Ordinance Noise Standards

Land Use Types	Maximum Noise Level in Decibels at Property Line
Residential, open space, industrial or commercial uses adjacent to a property used or zoned for residential purposes	55
Open space, commercial, or industrial land uses adjacent to a property used or zoned for commercial purposes or other non-residential uses	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

The Zoning Ordinance also limits noise levels generated by stand-by/backup and emergency generators. The noise level emitted by these generators shall not exceed 55 dBA at the property line of residential properties. The standards and criteria for stand-by/backup generators are set as follows:

1. Maximum noise levels, based upon a noise analysis by an acoustical engineer, will not exceed the applicable noise standards set forth in Title 20.80.2030.
2. Testing of generators is limited to 7 a.m. to 7 p.m., Monday through Friday.

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.

4.12.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
1. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐	1 – 3, 17
2. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	1 – 3, 17
3. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1 – 3, 17
4. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒	☐	☐	1 – 3, 17
5. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1, 15
6. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1, 2

4.12.2.1 *Noise Impacts from the Project*

Operational Noise (Long-Term)

The primary source of long-term noise created by the proposed project would be vehicular traffic to and from the site. Project-related traffic noise increases were calculated based on the vehicle trip generation and trip distribution calculated in the project's Transportation Impact Analysis (see Appendix F). Traffic noise levels along roadways serving the project site would increase by one dBA L_{dn} or less. Therefore, the project would not result in a measureable increase in noise at sensitive receptors near the site, and noise generated by the project would be less than significant. **(Less Than Significant Impact)**

Construction Noise (Short-Term)

Construction activities generate considerable amounts of noise, especially during earth moving activities when heavy equipment is used. The highest maximum noise levels generated by project

construction would typically range from about 90 to 95 dBA at a distance of 50 feet from the noise source. Typical hourly average construction generated noise levels range from 81 to 88 dBA measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., grading and excavation).

Existing sensitive receptors near the project site include the multi-family residential units and the senior housing across Lick Avenue east of the site. These land uses are approximately 50 feet east of the eastern site boundary.

The City of San José 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 (e.g. building demolition, grading, excavation, and pile driving) continuing for more than one year. Since construction would take approximately 15 months and there are sensitive land uses adjacent to the project site, the proposed project would result in potentially-significant construction noise impacts.

Impact NOI-1: Construction of the proposed project would last more than 12 months and would occur in the vicinity of sensitive residential land uses. Therefore, construction of the project would result in significant noise impacts to surrounding land uses. **(Significant Impact)**

Implementation of the following measures would reduce impacts from construction noise to less than significant levels:

MM NOI-1.1: Per Policy EC-1.7 of the City's General Plan, the project applicant shall prepare 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. Measures from this plan shall be included on all approved grading and building permit plans. The construction noise logistics plan shall be reviewed and approved by the Supervising Planner of the Environmental Review Division of the Department of Planning, Building, and Code Enforcement prior to issuance of a grading permit. Measures to be included in the plan shall include, but not be limited to:

a) Notifying the neighborhood of the construction activities and construction schedule (including estimated dates of various construction phases) at least one week and no more than three weeks prior to the start of construction.
b) Prohibit unnecessary idling of internal combustion engines. Equipment shall be shut off when not in use and the maximum idling time shall be limited to five minutes (consistent with MM AQ-2.1).
c) In order to minimize construction noise impacts, best available noise control practices and equipment (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds)

shall be used for all heavy earthmoving equipment, impact tools, compressors, engine generators, and diesel-fueled trucks. A letter from a qualified acoustic specialist shall be attached to the plan along with a list of proposed construction equipment, certifying that the proposed construction equipment includes the best available noise attenuating technologies.

d) If impact equipment (e.g., jack hammers, pavement breakers, or rock drills) is needed during construction, hydraulically or electric-powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used. External jackets on the tools themselves shall also be used if available and feasible.

e) Locate equipment at the work area to maximize the distance to noise-sensitive receptors and to take advantage of any shielding that may be provided by other on-site equipment.

f) Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

MM NOI-1.2: Construction shall be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Any request for construction outside of these hours shall be approved through a Planned Development Permit Amendment based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

MM NOI-1.3: Permitted work activities outside of specified construction hours shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors, and idling trucks are not permitted. The project applicant shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of the project applicant's appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, Building, and Code Enforcement, at his/her discretion, may rescind provisions to allow extended hours of construction activities on weekends only upon written notice to the developer.

MM NOI-1.4: Stationary noise generating equipment shall be located as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

With implementation of these measures prior to approval of a grading permit and during construction, the proposed project would have less than significant construction-related noise impacts. **(Less Than Significant Impact with Mitigation)**

4.12.2.2 *Vibration Impacts*

The proposed project would not be a source of vibration in operation. Construction of the project, however, may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, etc.) are used in areas adjoining developed properties. Construction activities would include demolition of existing structures, excavation, grading, site preparation work, foundation work, and new building framing and finishing.

The City of San José requires that new development minimize vibration impacts to adjacent uses during demolition and construction activities. General Plan Policy EC-2.3 establishes a vibration limit of 0.08 in/sec PPV for sensitive historic structures and 0.20 in/sec PPV for residential buildings of normal conventional construction. There are no sensitive historic buildings or buildings that are documented to be structurally weakened in the vicinity of the project site. There are residential buildings east of the site across Lick Avenue, however. Therefore, groundborne vibration levels exceeding 0.2 in/sec PPV would be considered to have potentially significant vibration impacts at off-site residential buildings.

Vibration levels from construction are estimated to be 0.04 in/sec PPV at the residences east of the site, which is below the 0.2 in/sec PPV significance threshold. Vibration generated by construction activities near the property line would at times be perceptible, however, it would not be expected to result in "architectural" damage to nearby buildings. Temporary, intermittent perception of vibration would not be significant, therefore, the proposed project would have less than significant construction-related vibration impacts. **(Less Than Significant Impact)**

4.12.2.3 *Airport Land Use Compatibility – Excessive Noise Levels*

The project site is located approximately three miles south of Mineta San José International Airport. According to the City of San José's aircraft noise contour maps for San José International Airport, the project site is located outside the airport's projected 60 dB CNEL impact area. **(Less Than Significant Impact)**

4.12.2.4 *Planning Considerations: Noise and Vibration Impacts to Future Residents*

As previously discussed, 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 would exacerbate 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.

General Plan Policy EC-1.1 requires that existing ambient noise levels be analyzed for new residences, hotels, motels, residential care facilities, hospitals, and other institutional facilities, and that noise attenuation be incorporated into the project in order to bring interior and exterior noise levels down to acceptable limits. The analysis below discloses information on the project's compliance with General Plan Policy EC-1.1.

Exterior Noise

The future noise environment at the project site will result primarily from vehicular traffic along Highway 87, Lick Avenue, and railroad operations at Tamien Station. Air traffic will also contribute to ambient noise levels in the project area.

Traffic noise levels along Lick Avenue are expected to increase by one dBA L_{dn} and day-night average noise levels are calculated to reach 71 dBA L_{dn} at the setback of the residences nearest the roadway. Future day-night average noise levels would reach 74 dBA L_{dn} at the residential land uses proposed nearest the rail lines and Highway 87.

Although the final design and location of outdoor uses would be determined at the site development permit application stage, it is anticipated that ground or podium-level uses would be included for one or both of the proposed residential buildings. These common areas could be subjected to noise levels in excess of the City's acceptable exterior noise level of 60 dBA L_{dn}.

<u>High-Speed Rail</u>

The California High Speed Train (HST), San José to Merced section, is proposed to pass through the City of San José and Tamien Station. The HST is currently planned to operate on an elevated structure along the existing rail right-of-way. Since that project is not yet approved or constructed, the potential noise impacts from the HST are discussed in the cumulative analysis found in ***Section 4.18, Mandatory Findings of Significance***.

Interior Noise

Future residential buildings would be exposed to exterior noise levels greater than 60 dBA L_{dn}. The highest noise levels would be experienced at the unshielded residential facades near the rail lines and Highway 87, where day-night average noise levels are calculated to reach 74 dBA L_{dn}. Interior noise levels within new residential units are required to be maintained at 45 dBA L_{dn}, and standard residential construction provides approximately 15 dBA of exterior to interior noise reduction assuming partially-open windows. Standard construction with windows closed provides between 20 and 25 dBA of noise reduction in interior spaces.

Since exterior average noise levels could reach 74 dBA L_{dn}, standard construction techniques would not provide sufficient noise attenuation to ensure interior noise levels at or below 45 dBA L_{dn}. Outdoor use areas included in the proposed project could be exposed to noise levels exceeding the

City's "acceptable" exterior noise level limit of 60 dBA L_{dn} in General Plan Policy EC-1.1 and interior noise levels at the maximally-exposed residential units would exceed the City's interior noise standard of 45 dBA L_{dn}.

The following Permit Conditions would be incorporated into the project to reduce noise impacts to a less than significant level:

Permit Conditions:

- A project-specific acoustical analysis shall be prepared and submitted to the City of San José prior to issuance of a Planned Development permit. The analysis shall confirm that exterior noise levels at common outdoor use areas would be at or below 60 dBA L_{dn}. Common outdoor uses areas should be located in shielded courtyards to maximize the acoustical shielding of transportation noise sources by the apartment buildings themselves.

- The acoustical analysis shall also confirm that interior noise levels will be reduced to 45 dBA L_{dn} or lower at all proposed units. The specific determination of what noise insulation treatments are necessary will be conducted on a unit-by-unit basis. Results of the interior acoustical analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit. Noise treatment measures could include, but are not limited to, the following:

    a) Forced-air mechanical ventilation for units throughout the site so that windows can be kept closed at the occupant's discretion to control noise.

    b) Sound-rated windows and doors. Preliminary calculations indicate that sound-rated windows and doors with a sound transmission class rating of STC 30 to 40 would be sufficient to control noise and achieve the 45 dBA Ldn interior noise standard at residential facades with line-of-sight to Lick Avenue, Highway 87, and Tamien Station.

Based on the site-specific noise assessment, these measures are feasible and would provide sufficient attenuation to reduce exterior and interior noise to acceptable levels per the General Plan.

Vibration

Residential units proposed by the project would be located a minimum of 65 feet from the conventional railroad tracks and would be exposed to vibration levels ranging from 58 to 65 VdB. These units would not be exposed to vibration levels greater than the FTA's 72 VdB vibration limit for "frequent events." Therefore, the project will comply with General Plan Policy EC-2.1.

4.12.3 Conclusion

Construction-related noise impacts to surrounding land uses would be mitigated with implementation of **MM NOI-1.1 – 1.4**. The project would not cause significant long-term noise or vibration impacts. **(Less Than Significant Impact With Mitigation)**

4.13 POPULATION AND HOUSING

4.13.1 Setting

According to United States Census Bureau, San José's 2013 population was estimated at 998,537 people.[44] In 2010, there were 314,038 households with an average of 3.11 persons per household. According to the City's General Plan, the projected population in 2035 will be 1.3 million people occupying 429,350 households.

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, the result is a balance 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 0.85 jobs per employed resident in 2012) but this ratio is expected to become more balanced (i.e. approach one job per employed resident) with full build-out under the current General Plan.[45]

4.13.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	1 – 3
2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1 – 3
3. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1 – 3

4.13.2.1 *Population and Housing Impacts*

Implementation of the project would replace the existing child care center with residential development at densities up to 83-91 dwelling units per acre on 3.5 acres of the site and 62-74 dwelling units per acre on 1.6 acres of the site. Overall the project is anticipated to entail

[44] United States Census Bureau. *State & County QuickFacts, San José (city), California.* Last Revised April 22, 2015. Available at: http://quickfacts.census.gov/qfd/states/06/0668000.html
[45] City of San José. *Envision San José 2040 General Plan Annual Performance Review*. October 9, 2013. Memorandum. Available at: https://www.sanjoseca.gov/DocumentCenter/View/23424

construction of up to 440 residential units with 3,000 square feet of transit-serving commercial uses. Using the average rate of 3.11 persons per household identified above and the projected construction of 440 residential units, the project would result in a net increase in local population of approximately 1,368 residents. The number of employees working in the retail space is estimated to be eight, based on approximately 2.5 employees per 1,000 square feet. Therefore the total service population of the project would be approximately 1,376 people.

The project site is currently designated *Urban Residential* in the *Envision San José 2040 General Plan*, a designation which allows residential development at densities ranging from 30-95 dwelling units per acre. Therefore, the proposed residential density and population increase are consistent with the City's General Plan. Potential population growth resulting from the project is consistent with the growth projections made in the General Plan and therefore would not be a substantial increase in population in the City. **(Less Than Significant Impact)**

Redevelopment of the project site would not displace any existing housing or necessitate the construction of housing elsewhere. **(No Impact)**

4.13.3 Conclusion

The proposed project would not cause substantial population growth or result in a loss of housing. **(Less Than Significant Impact)**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 *Fire Protection Services*

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Fire Station Number 3, which is located at 98 Martha Street approximately 1.1 miles by road northeast of the project site.

For fire protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

4.14.1.2 *Police Services*

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 3.5 miles by road north of the project site. The SJPD is divided into four geographic divisions: Airport, Western, Foothill, and Southern. The project site is served by the SJPD Southern Division, which includes six patrol officers. For the last several years, the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (nonemergency) calls.

4.14.1.3 *Schools*

The project site is located within the San José Unified School District, and would be served by the schools listed in Table 4.14-1 below.[46]

[46] San José Unified School District. School Locator. Last Modified May 26, 2015. Accessed May 28, 2015. Available at: http://www.schvision.com/schoolfinder3/sjusd/Default.aspx

Table 4.14-1 Public Schools for Future Project-Generated Students			
School	**Distance From Project Site** (by road)	**2013-2014 Enrollment**	**Capacity**
Galarza Elementary School[1] 1610 Bird Avenue	1.3 miles	833	986
Willow Glen Middle School 2105 Cottle Avenue	2.5 miles	1,262	1,363
Willow Glen High School 2001 Cottle Avenue	2.5 miles	1,598	1,914
Source: Case, Jill. Student Assignment/Demographics Director, San José Unified School District. Personal Communication. September 19, 2014. [1] There are two elementary schools (Galarza Elementary and Hammer Montessori) serving the site. Student capacity and enrollment information are based on both schools.			

4.14.1.4 *Parks and Libraries*

The Department of Parks, Recreation, and Neighborhood Services provides 184 neighborhood parks and nine regional parks for residents of San José. These parks include a variety of recreational open spaces including playing fields, gardens, and trails. The nearest park to project site is the Parque de Padre Mateo Sheedy located approximately 0.3 miles southeast of the site. This park contains a small grass area, a play structure, and picnic tables. The nearest large park is Biebrach Park approximately 0.8 miles northwest of the site. This park contains a large playing field, multi-use courts, play structures, picnic tables, as well as a public swimming pool.

There is a public park planned for the vacant land north of the project site. Amenities included at this future park could include a soccer field, basketball court, tennis court, parking area, and other associated park structures. This park was the subject of environmental review in April 2015.[47]

The City of San José is served by the San José Public Library System, which consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest libraries to the project site are the Biblioteca Latino Americana Branch Library located at 921 South First Street (0.9 miles northeast of the project site) and the Willow Glen Branch Library located at 1157 Minnesota Avenue (1.4 miles southwest of the project site).

4.14.1.5 *Applicable Plans, Policies, and Regulations*

California Government Code Section 65995-65998 (School Facilities)

The California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of) the planning, use, or development of real property" [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full and complete school facilities

[47] City of San José. *Initial Study/Mitigated Negative Declaration for the Tamien Park Master Plan*. April 2015. Available at: http://www.sanjoseca.gov/DocumentCenter/View/42040

mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. In accordance with California Government Code Section 65996, developers pay a school impact fee to the school district to offset the increased demands on school facilities caused by their proposed residential development project.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José:

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.

Policy VN-1.1: Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks, and retail services.

Policy VN-1.2: Maintain existing and develop new community services and gathering spaces that allow for increased social interaction of neighbors, (i.e., parks, community centers and gardens, libraries, schools, commercial areas, churches, and other gathering spaces).

Policy CD-5.3: Promote crime prevention through site and building designs that facilitate surveillance of communities by putting "eyes on the street." Design sites and buildings to promote visual and physical access to parks and open space areas. Support safe, accessible, and well-used public open spaces by orienting active use areas and building facades towards them.

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.

4.14.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire Protection?	☐	☐	☒	☐	1 – 3
Police Protection?	☐	☐	☒	☐	1 – 3
Schools?	☐	☐	☒	☐	1 – 3
Parks?	☐	☐	☒	☐	1 – 3
Other Public Facilities?	☐	☐	☒	☐	1 – 3

4.14.2.1 *Impacts to Fire Protection Services*

The General Plan FPEIR concluded that planned growth under the General Plan would increase calls for fire protection services in the City. The higher density development envisioned in the General Plan may require additional staffing and equipment to adequately serve the larger population, but no new stations would be required other than those already planned.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is, however, only a small fraction of the total growth identified in the General Plan. Since the site is located within a developed urban area, the SJFD would not have to expand its service area to meet fire service demands from the future residents of the site. The proposed project, by itself, would not preclude the SJFD from meeting its service goals. As a result, the proposed project would be adequately served by existing resources and no additional fire personnel or equipment would be required.

Furthermore, future development under the proposed zoning would be constructed in accordance with current building codes and would be maintained in accordance with applicable City policies identified in the General Plan FPEIR to avoid unsafe building conditions and promote public safety. As a result, the future residential project under the proposed rezoning would not require new fire stations to be constructed or existing fire stations to be expanded to serve the development while maintaining City service goals. **(Less Than Significant Impact)**

4.14.2.2 *Impacts to Police Protection Services*

The General Plan FPEIR concluded that planned growth under the General Plan would increase the population of the City, which would require an increase in police services. While the overall service area would not increase, additional police officers and equipment would be needed to serve the larger population. The increase in police personnel may require the expansion of existing police facilities.

The proposed increase in development on the project site is accounted for in the planned growth for the City. The project is only a small fraction of the total growth identified in the General Plan. Since the site is located within a developed urban area, the SJPD would not have to expand its service area to meet fire service demands from the future residents of the site. The proposed project, by itself, would not preclude the SJPD from meeting its service goals. As a result, all future development proposed on-site would be adequately served by existing resources. No additional police personnel or equipment or expanded facilities would be required.

Furthermore, a future 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. As a result, the future development allowed under the proposed rezoning would not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals. **(Less Than Significant Impact)**

4.14.2.3 *Impacts to Schools*

As noted above, the project site is located within the San José Unified School District. Implementation of the proposed project would increase the local resident population and, as a result, would increase the demand on local school facilities. Based on the student generation rates for the San José Unified School District, the proposed project would generate approximately 111 new students, 57 of whom would be Elementary (K – 5th grade) students, 24 of whom would be Middle School (6th - 8th grade), and 30 of whom would be High School students (9th – 12th grade).[48] As shown in Table 4.14-1 above, there is currently sufficient capacity at all of the public schools to which children living on the project site would attend.

According to California Government Code Section 66000 the Mitigation Fee Act, a qualified agency such as a local school district may impose fees on developers to compensate for the impact that a project will have on existing facilities and services. The California Legislature passed Senate Bill 50 (SB 50) in 1998 to insert new language into the Government Code (Sections 65995.5-65995.7), which authorized school districts to impose fees on developers of new residential construction in excess of mitigation fees authorized by Government Code Section 66000. SB 50 also restricts the ability of local agencies to deny project approvals on the basis that public school facilities are inadequate. School districts must meet a list of specific criteria, which include completion and annual update of a School Facility Needs Analysis, in order to impose additional fees.

[48] Odell Planning and Research, Inc. *Development Fee Justification Study Prepared for the San Jose Unified School District.* 2012. Accessed May 28, 2015. Available at: http://www.sjusd.org/pdf/districtinformation/Development_Fee_Justification_Study.pdf

Under SB 50, school districts may collect fees to offset the costs associated with increasing school capacity as a result of development. Under the terms of this statute, payment of statutory fees by property owners or property developers is considered to mitigate in full for the purposes of CEQA any impacts to school facilities associated with a qualifying project. The fees are assessed based upon the proposed square footage of the new or expanded development.

The San José Unified School District (SJUSD) created the *Development Fee Justification Study* in April 2012, which concluded that the facility cost to accommodate students from new developments is $5.30 per square foot. California Government Code Section 65995(b), however, places a maximum residential cost of $3.36 per square foot.

Although the school district has student capacity issues, the proposed project would be served by three schools with sufficient capacity to accommodate students from the development. In addition, the proposed project would pay school impact fees, consistent with SB 50, which allow the local school district to provide sufficient services for students generated by the project. Therefore, implementation of the proposed project would not result in substantial impacts to school facilities. **(Less Than Significant Impact)**

4.14.2.4 *Impacts to Parks and Libraries*

Future residents of the site would use existing recreational facilities in the area as well as communal open space on-site. The new residents on the site would incrementally increase the use of existing recreational facilities in the project area.

The City of San José has a Parkland Dedication Ordinance (PDO) which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population or pay an in-lieu fee. Residential growth resulting from build out of the General Plan is expected to result in an overall City population of 1,313,811 by 2035, which will increase the demand for park and recreational facilities and create an overall (city-wide) parkland deficit of 2,187.4 acres.[49]

The General Plan FPEIR concluded that construction and/or expansion of parks with compliance to General Plan policies and regulations will reduce any physical impacts from development or expansion of parkland facilities to a less than significant level. The proposed project will be required to comply with the PDO requirements. Therefore, the proposed project would not result in significant impacts to park facilities in San José. **(Less Than Significant Impact)**

There are 23 libraries located throughout San José. Development approved under the Envision 2040 General Plan is projected to increase the City's residential population to 1,313,811. The existing and planned library facilities in the City will provide approximately 0.68 square feet of library space per capita for the anticipated population under build-out of the Envision 2040 General Plan by the year 2035, which is above the City's service goal. The proposed project would result in a relatively small increase in the resident population and would not result in significant impacts to San José library facilities or cause the City to miss its service goal target. **(Less Than Significant Impact)**

[49] City of San José. *Envision San José 2040 Final Program Environmental Impact Report*. June 2011. Table 3.9-5.

4.14.3 Conclusion

The proposed project would not result in significant impacts to any public services provided in the City of San José. Compliance with established park and school fee mitigation programs would ensure that the proposed project makes a fair share contribution toward providing adequate facilities to accommodate future residents of the project site. **(Less Than Significant Impact)**

4.15 RECREATION

4.15.1 Setting

The City of San José currently operates 184 neighborhood parks (including skate parks), 13 community centers, nine regional parks, and over 55 miles of trails. Amenities within the neighborhood parks can include basketball courts, exercise (par) courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts. Planning, acquisition, and development of parks and recreational facilities in San José are the responsibility of the Parks, Recreation, and Neighborhood Services Department.

A new park is planned adjacent to the northern boundary of the project site. The nearest park to project site is the Parque de Padre Mateo Sheedy, located approximately 0.3 miles southeast of the site. This park contains a small grass area, a play structure, and picnic tables. The nearest large park is Biebrach Park approximately 0.8 miles northwest of the site. This park contains a large playing field, multi-use courts, play structures, picnic tables, and a public swimming pool.

4.15.1.1 *Applicable Plans and Policies*

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38) and *Park Impact Ordinance* (PIO) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO.

Envision San José 2040 General Plan Policies

The following recreation policies established in the Envision 2040 General Plan apply to the proposed project:

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 parks 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-1.12: 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 3-mile radius of the residential development that generates the PDO/PIO funds.

4.15.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐	1 – 3
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐	1 – 3

4.15.2.1 *Impacts to Recreational Resources*

Redevelopment of the site with residential uses would incrementally increase the demand on parks and other recreational facilities in the project area. The General Plan FPEIR concluded that the City's PDO would be satisfied through a combination of several means including: dedication of land; payment of fees (based upon the unit count of the project); credit for qualifying recreational amenities (based on project design); and improvement of existing parkland or recreational facilities.

The proposed project will be required to comply with the PDO requirements, either by dedicating land on-site or by paying impact fees. While the increase in population will result in an incremental increase in the use of existing and planned parks, trails, and community centers within the City, these facilities would be maintained and expanded through application of PDO/PIO fees in accordance with General Plan policies. The addition of up to 440 residential units would not result in substantial physical deterioration of these facilities, and the incremental increase in park use resulting from the project would not generate the need for new park facilities beyond those identified in the General Plan. **(Less Than Significant Impact)**

4.15.3 Conclusion

By following the adopted General Plan policies and complying with PDO/PIO requirements, the future development allowed under the proposed rezoning would not substantially deteriorate existing park facilities or expand recreational facilities that would adversely affect the existing environment. **(Less Than Significant Impact)**

4.16 TRANSPORTATION

This section is based in part on a Transportation Impact Analysis (TIA) prepared by *Hexagon Transportation Consultants* on September 21, 2015. The TIA is located in Appendix F of this Initial Study.

4.16.1 Setting

4.16.1.1 *Roadway Network*

Regional access to the site is provided by State Route (SR) 87. Local access to the project site is provided via Willow Street, Bird Avenue, Minnesota Avenue, Alma Avenue, and Lelong Street. These roadways are described below.

State Route 87 is a north-south freeway providing regional access to the project site via its connections to SR 85 and US 101 in the south, and I-280 and US 101 in the north. These facilities allow for regional access from East Bay and Peninsula cities, as well as Gilroy and Morgan Hill to San José. SR 87 is oriented in a northwest/southwest direction with four mixed-flow lanes and two HOV lanes in the vicinity of the site. SR 87 provides access to the project study area via its interchange with Lelong Street.

I-280 extends from US 101 in San José to I-80 in San Francisco. It is generally an east-west oriented eight-lane freeway in the vicinity of downtown San José. Access to the project site to and from I-280 is provided via freeway ramps at Bird Avenue, freeway ramps at Seventh Street, and freeway ramps at Vine Street/Almaden Avenue. Site access from I-280 is also available via its interchange with SR 87.

Monterey Road (SR 82) is a state highway that is a north-south six-lane arterial in the vicinity of the site. It extends from Gilroy in the south to central San José in the north, where SR 82 eventually becomes El Camino Real, extending all the way north to San Francisco. Monterey Road provides access to the site via Curtner Avenue and Alma Avenue.

Willow Street is a two-lane east-west major collector street. Willow Street runs from just east of Leigh Avenue east to S. First Street. Willow Street provides access to the project site via its intersection with Lick Avenue. Willow Street has bike lanes and provides a connection to the Los Gatos Creek Trail.

Bird Avenue is a major north-south arterial street. Within the project area, Bird Avenue is a two-lane undivided road. North of Coe Avenue, Bird Avenue is four lanes with a restrictive center median. Bird Avenue provides access to the project site via its intersections with Minnesota Avenue and Willow Street.

Minnesota Avenue is an east-west major collector street. Within the study area, it has four lanes between Hicks Avenue-Camino Ramon and its transition to Alma Avenue, one-quarter mile west of SR 87. From its transition intersection to Alma Avenue, Minnesota Avenue extends northward past

Willow Street, ending at Prevost Street. The north-south section of Minnesota Avenue is a two-lane local street. Alma Avenue provides access to the project site via Lick Avenue.

Alma Avenue is an east-west major collector street that extends westward from Senter Road to its transitions into Minnesota Avenue. Alma Avenue is a four-lane undivided road within the study area, and provides access to the project site via Lick Avenue.

Lelong Street is a two-lane north-south local street connecting Alma Avenue in the south and Willow Street in the north. Lelong Street provides on-ramp access to SR 87 northbound and off-ramp access for SR 87 southbound. Lelong Street provides access to the project site via its intersections with Willow Street and Alma Avenue.

Lick Avenue is a two-lane north-south local street connecting Alma Avenue in the south and Willow Street in the north. Lick Avenue provides direct access to the project site via two driveways.

4.16.1.2 *Transit, Bicycle, and Pedestrian Facilities*

Transit

Transit service in the project area is provided by the adjacent Tamien Station, which supports a range of local and regional transit services. Existing transit services are shown in Figure 4.16-1 and are described further below.

VTA Light Rail Transit (LRT) Service

The Tamien LRT Station is located within walking distance of the project site. The VTA currently operates the 42.2-mile light rail line system extending from south San Jose through downtown to the northern areas of San Jose, Santa Clara, Milpitas, Mountain View and Sunnyvale. The service operates nearly 24 hours a day with 15-minute headways during much of the day.

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain. To access Caltrain, residents can walk to the Tamien Station. Trains stop at the Tamien Station during commute hours five days a week, although stops are not as frequent as at the Diridon Station. Caltrain provides passenger train service seven days a week and provides extended service to Morgan Hill and Gilroy during commute hours.

Altamont Commuter Express and Amtrak Service

The Diridon Caltrain Station is located one stop north of the Tamien Station and is served by the Altamont Commuter Express (ACE) and Amtrak. The ACE provides commuter passenger train service across the Altamont between Stockton and San Jose during the weekdays. ACE stops at the San Jose Diridon station four times during both the morning and evening commute hours. Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with stops in San Jose, Santa Clara, Fremont, Hayward,

Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San Jose Diridon station eight times during the weekdays between approximately 7:40 am and 11:55 pm in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon station seven times during the weekdays between 6:40 am and 7:15 pm.

Bus Service

Multiple bus stops are located within walking distance of the project site. The closest bus stop is located at the Tamien LRT Station, which is served by bus routes 25 and 82.

The 25 line provides regular service between the Alum Rock Transit Center in San Jose and De Anza College in Cupertino via Willow Street and Keyes Street, with 10 to 30-minute headways during commute hours. The nearest bus stop that serves this line is located at the Tamien LRT Station.

The 26 line provides regular service between Eastridge Mall in San José and Lockheed Martin in Sunnyvale via Curtner Avenue and Tully Road, with 30-minute headways during commute hours. The 26 line has stops at the Curtner LRT station and near the intersection of Monterey Road and Curtner Avenue. The nearest bus stop that serves this line is approximately 1.5 miles from the project site.

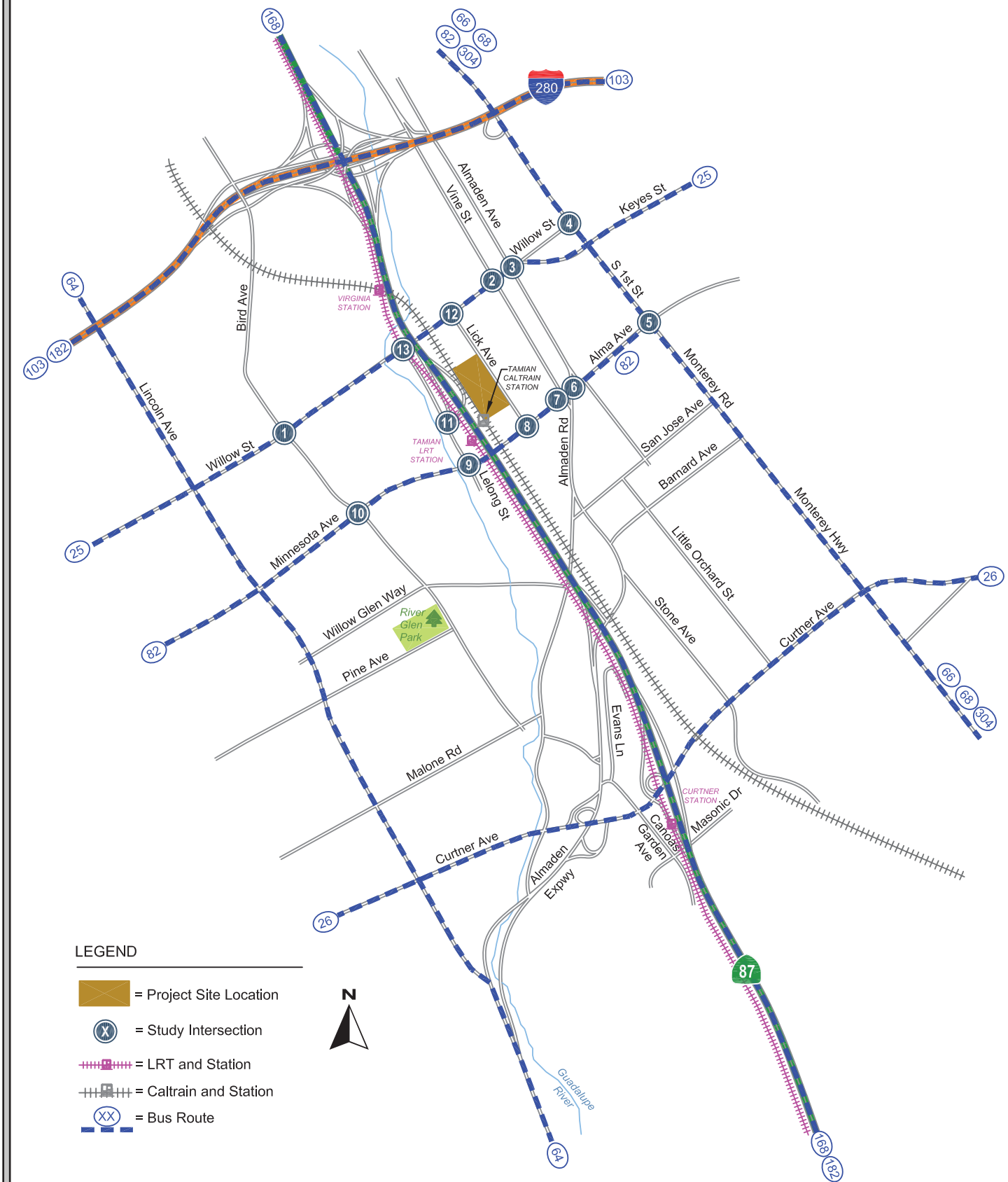
The 64 line provides regular service between the Almaden LRT station and the intersection between McKee Road and White Road via Lincoln Avenue west of the site, with 15 to 30-minute headways during commute hours. The nearest bus stop that serves this line is approximately one mile from the project site.

The 66 line provides regular service between Santa Teresa Hospital and Milpitas via Monterey Road, with 15-minute headways during commute hours. The nearest bus stop that serves this line is approximately 0.75 miles from the project site.

The 68 line provides regular service between the San Jose Diridon Caltrain Station and Gilroy Transit Center via Monterey Road, with 15-minute headways during commute hours. The nearest bus stop that serves this line is approximately 0.75 miles from the project site.

The 82 line provides regular service between Westgate Shopping Center and the intersection between Bassett Street and First Street via Minnesota Street and Alma Avenue, with 30-minute headways during commute hours. The nearest bus stop that serves this line is located at the Tamien LRT Station.

The 304 line provides limited stop service between South San Jose and Downtown Mountain View via Monterey Road. The 304 line operates with 30-minute headways during the commute hours. The nearest bus stop that serves this line is approximately 0.75 miles from the project site, and this bus stop is also served by the 25 and 82 lines.



Source: Hexagon Transportation Consultants, Sep. 21, 2015.

EXISTING TRANSIT FACILITIES FIGURE 4.16-1

Bicycle and Pedestrian Facilities

Pedestrian facilities in the study area consist of sidewalks along all surrounding local roadways except the west side of Lelong Street, which provides no sidewalks. Crosswalks with pedestrian signal heads are located at all approaches for all signalized intersections in the study area. There are no crosswalks at the unsignalized intersection of Lick Avenue and Willow Street. The existing pedestrian facilities provide good connectivity between the surrounding residential areas and the train and light rail stations.

The Guadalupe River Park multi-use trail system is a Class I (i.e. separated from motor vehicle traffic) 11-mile trail that runs through the City of San José along the Guadalupe River. The Guadalupe River trail is a continuous Class I bikeway that is shared with pedestrians from Curtner Avenue in the south to just north of I-880, where it continues as an unpaved path to SR 237. This park trail system runs adjacent to SR 87 near the project vicinity, with access provided via the Tamien Caltrain/LRT station. Bike lockers and bike racks are provided at the Tamien Station. The trail system is also available for use by pedestrians year round.

According to the San Jose Bike Plan 2020 and the VTA Bikeways Map, there are numerous City- and County-designated bikeways in the study area. These include:

- Monterey Road: Class II bicycle lanes from Keyes Street south.
- Curtner Avenue: Class II bicycle lanes east and west of Monterey Road (Tully Road to the east).
- Bird Avenue: mixture of Class II and Class III bikeways.
- Lincoln Avenue: Class II bicycle lanes between Minnesota Avenue and Lonus Street near I-280.
- Willow Street: Class II bicycle lanes west of Lick Avenue. Willow Street provides direct access to the Los Gatos Creek Trail, located approximately ½ mile west of Meridian Avenue. East of Lick Avenue, Willow Street is a Class III bicycle route and connects to Goodyear/Keyes Street, which is a Class III bicycle route.
- Keyes Street: Class II bicycle lanes from S. First Street to Senter Road.

Additional bicycle facilities are planned in the project area, including Class II bicycle lanes on Almaden Avenue and Vine Street. Existing and planned bicycle facilities are shown in Figure 4.16-2.

Source: Hexagon Transportation Consultants, Sep. 21, 2015.

EXISTING AND PLANNED BICYCLE FACILITIES FIGURE 4.16-2

4.16.1.3 *Study Methodology*

The operations of roadway facilities are described with the term "level of service" (LOS). LOS is a qualitative description of traffic flow based on such factors as speed, travel time, delay, and freedom to maneuver. Six levels are defined from LOS A, with the best operating conditions, to LOS F, with the worst operating conditions. LOS E represents "at-capacity" operations. Operations are designated as LOS F when volumes exceed capacity, resulting in stop-and-go conditions.

City of San José Intersections

The City of San José LOS methodology for signalized intersections is the 2000 *Highway Capacity Manual* (HCM) method. This method is applied using TRAFFIX software. The 2000 HCM operations method evaluates signalized intersection operations on the basis of average control delay time for all vehicles at the intersection. Since TRAFFIX is also the County Congestion Management Program (CMP) designated intersection level of service methodology, the City of San José methodology employs the CMP default values for the analysis parameters. The City of San José has established LOS D as the minimum acceptable operating level for all intersections, including VTA Congestion Management Program (CMP)[50] designated intersections. The minimum acceptable level for county controlled and CMP-monitored intersections is LOS E. The correlation between average control delay and LOS is shown in Table 4.16-1 below.

Table 4.16-1 Intersection Level of Service Definitions Based on Delay

LOS	Description	Average Control Delay per Vehicle (seconds)
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[a] 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

Source: Transportation Research Board. *2000 Highway Capacity Manual.* 2000.
[a] V/C = Ratio of roadway volume to capacity

[50] VTA is the Congestion Management Agency in Santa Clara County.

Freeway Segments

The LOS for freeway segments is estimated based on vehicle density, vehicles per mile per lane (vpmpl), peak hour volume in vehicles per hour (vph), number of travel lanes, and average travel speed in miles per hour (mph). Freeway LOS criteria are summarized in Table 4.16-2 below. The CMP defines an acceptable level of service for freeway segments as LOS E or better.

Table 4.16-2 Freeway Level of Service Definitions Based on Density

LOS	Description	Density (vehicles/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.	11.0 or less
B	Speeds at the free-flow speed are generally maintained. The ability to maneuver within the traffic stream is only slightly restricted, and the general level of physical and psychological comfort provided to drivers is still high.	11.1 to 18.0
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.	18.1 to 26.0
D	Speeds begin to decline slightly with increased flows at this level. Freedom to maneuver within the traffic stream is more noticeably limited, and the driver experiences reduced physical and psychological comfort levels.	26.1 to 46.0
E	At this level, the freeway operates at or near capacity. Operations in this level are volatile because there are virtually no usable gaps in the traffic stream, leaving little room to maneuver within the traffic stream.	46.1 to 58.0
F	Vehicular flow breakdowns occur. Large queues form behind breakdown points.	Greater than 58.0

Source: Transportation Research Board. *2000 Highway Capacity Manual.* 2000.

Study Intersections and Freeway Segments

Traffic conditions were evaluated for ten signalized intersections, three unsignalized intersections, and five freeway segments in the vicinity of the project site. These roadway segments are listed below. The study intersections are also indicated on Figures 4.16-1 and 4.16-2.

Study Intersections

1. Bird Avenue and Willow Street
2. Vine Street and Willow Street
3. Almaden Avenue and Willow Street
4. S. First Street and Willow Street (CMP)
5. S. First Street and Alma Avenue (CMP)

6. Almaden Avenue and Alma Avenue
7. Vine Street and Alma Avenue
8. Lick Avenue and Alma Avenue
9. Lelong Street and Alma Avenue
10. Minnesota Avenue and Bird Avenue
11. Lelong Street and SR 87 Off-Ramp (unsignalized, future signal)
12. Lick Avenue and Willow Street (unsignalized)
13. Lelong Street and Willow Street (unsignalized)

Freeway Segments

1. SR 87, between Alma Avenue and I-280
2. SR 87, between I-280 and Julian Street
3. I-280, between Meridian Avenue and Bird Avenue
4. I-280, between Bird Avenue and SR 87
5. I-280, between SR 87 and 10th Street

Traffic conditions at the study intersections were analyzed for the weekday AM and PM peak hours of traffic. The AM peak hour of traffic is generally between 7:00 and 9:00 AM, and the PM peak hour is typically between 4:00 and 6:00 PM. It is during these periods on an average day that the most congested traffic conditions occur.

4.16.1.4 *Existing Conditions*

Intersections

Existing morning and afternoon peak hour traffic volumes at the study intersections were obtained from new manual turning-movement counts conducted in 2014 and 2015. Analysis of the existing intersection operations concluded that all of the study intersections currently operate at an acceptable LOS during both the AM and PM peak hours. The results of the existing conditions analysis are summarized in Table 4.16-3.

Table 4.16-3 Study Intersection Existing Level of Service

Intersection		Peak Hour	Average Delay	LOS
1	Bird Avenue & Willow Street	AM	32.5	C
		PM	32.1	C
2	Vine Street & Willow Street	AM	8.0	A
		PM	16.2	B
3	Almaden Avenue & Willow Street	AM	16.5	B
		PM	15.2	B
4	South First Street & Willow Street (CMP)	AM	5.9	A
		PM	5.8	A
5	South First Street & Alma Avenue (CMP)	AM	40.7	D
		PM	45.2	D

Table 4.16-3 Study Intersection Existing Level of Service				
Intersection		**Peak Hour**	**Average Delay**	**LOS**
6	Almaden Avenue & Alma Avenue	AM PM	19.1 29.1	B C
7	Vine Street & Alma Avenue	AM PM	11.1 18.9	B B
8	Lick Avenue & Alma Avenue	AM PM	13.1 21.7	B C
9	Lelong Street & Alma Avenue	AM PM	35.4 32.9	D C
10	Bird Avenue & Minnesota Avenue	AM PM	35.8 37.2	D D
Note: All study intersections are under the jurisdiction of the City of San José				

Freeway Segments

Traffic volumes for the study freeway segments were obtained from the 2012 CMP Annual Monitoring Report, which contains the most recent data collected for freeway segments located in Santa Clara County. The results of the analysis, summarized in Table 4.16-4 below, show that the multiple directional freeway segments currently operate at an unacceptable LOS F.

Table 4.16-4 Existing Freeway Levels of Service					
Freeway Segment		**Direction**	**Peak Hour**	**Mixed-Flow Lanes**	**HOV Lane**
				LOS	
SR 87	Alma Avenue to I-280	NB	AM PM	F C	D B
	I-280 to Julian Street	NB	AM PM	E B	C A
	Julian Street to I-280	SB	AM PM	C F	A C
	I-280 to Alma Avenue	SB	AM PM	C F	A C
I-280	Meridian Avenue to Bird Avenue	EB	AM PM	E F	- -
	Bird Avenue to SR 87	EB	AM PM	C F	- -
	SR 87 to 10th Street	EB	AM PM	C F	- -
	10th Street to SR 87	WB	AM PM	F D	- -
	SR 87 to Bird Avenue	WB	AM PM	F D	- -
	Bird Avenue to Meridian Avenue	WB	AM PM	F D	- -

Local Traffic Operations

Traffic conditions were observed in the field to identify existing operational deficiencies and to confirm the accuracy of calculated levels of service. Overall the study intersections operated well during both the AM and PM peak hours of traffic, and the LOS analysis appears to accurately reflect actual existing traffic conditions. However, field observations revealed that some operational problems do occur.

Lelong Street and Willow Street

There is approximately 300 feet of sight distance between the northbound left-turn movement at the intersection of Lelong Street and Willow Street and vehicles traveling eastbound on Willow Street. The eastbound traffic approaches around a slight bend in the road from a higher elevation than the northbound traffic. Although the intersection meets the sight distance standard of 200 feet for a posted speed limit of 30 mph, due to the unique intersection geometry many drivers turning left from northbound Lelong Street do not make the left turn even when adequate gaps are available.

Lelong Street at the SR 87 Ramps and Alma Avenue

The Lelong Street/SR 87 Ramps intersection is currently stop-controlled, which causes significant delays for the northbound right-turn, southbound left-turn and westbound left-turn movements. During the AM peak hour, the southbound left-turn movement queue exceeds the left-turn pocket storage, blocking southbound through traffic on Lelong Street. During the PM peak hour, the westbound left-turn movement queue extends back onto the SR 87 southbound off-ramp and slows the flow of traffic merging onto southbound SR 87.

During both the AM and PM peak periods, long vehicle queues develop for the northbound right-turn movement onto the SR 87 northbound on-ramp. The vehicle queues on northbound Lelong Street extend back to Alma Avenue. This queuing issue has the greatest effect in the AM peak period, when the northbound SR 87 on-ramp metering light is on. The westbound right-turn movement from Alma Avenue onto Lelong Street experiences significant delay. Also, vehicles turning left from eastbound Alma Avenue require two signal cycles to clear the intersection.

Bird Ave and Willow Street

During the AM peak period, this intersection has a high number of pedestrians, particularly school-age children crossing the north and south approaches. All pedestrians are able to cross Bird Avenue in the allotted time, but occasionally the northbound vehicle queues from the downstream intersection will cause cars to stop on or just after the crosswalk on the north leg of the intersection.

During the PM peak period, the intersection experiences minor operational issues. Left-turn traffic on the southbound, westbound and eastbound legs are all consistently filled, and vehicles occasionally spill out of the turn pockets. However, all traffic is able to clear the intersection in one signal cycle.

Vine Street and Almaden Avenue at Alma Avenue

The intersections of Vine Street/Alma Avenue and Almaden Avenue/Alma Avenue are closely spaced, providing limited stacking space between the two intersections. As a result, minor issues related to vehicle queueing occur for the northbound left-turn movement at Almaden Avenue/Alma Avenue and for the southbound left-turn movement at Vine Street/Alma Avenue.

4.16.1.5 *Applicable Plans, Policies, and Regulations*

Regional Transportation Plan 2035

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. The most recent edition of the Regional Transportation Plan, known as Transportation 2035, was adopted in April 2009. Transportation 2035 directs funding for various projects in Santa Clara County, including pavement maintenance for local streets, improvement programs for Caltrain, VTA, and countywide shuttle service programs.

Congestion Management Program

VTA oversees the *Santa Clara County Congestion Management Program* (CMP). 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. Each CMP is required to 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 database element, an annual monitoring and conformance element, and a deficiency plan element.

Bike Plan 2020

The City of San José *Bike Plan 2020* (adopted in 2009) contains policies for guiding the development and maintenance of bicycle and trail facilities within San José, as well as the following goals for improving bicycle access and connectivity: 1) Complete 500 miles of bikeways, 2) Achieve a five percent bike mode share, 3) Reduce bike collision rates by 50 percent, 4) Add 5,000 bicycle parking spaces, and 5) Achieve Gold-Level Bicycle Friendly Community status.

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 LOS 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).[51]

The Downtown Core is exempt from the City's standard of maintaining LOS D. Exceptions to the standard are also made for small, infill projects and for impacts to Protected Intersections within Special Strategy Areas, including Transit Oriented Development Corridors and Transit Station Areas. "Protected Intersections" have been built to their maximum capacity and/or have been prioritized for other modes of travel (i.e., pedestrian, bicycle, and/or transit). Expansion of these intersections to increase vehicle capacity is infeasible due to physical constraints or because roadway improvements would have an adverse effect on other modes. If a project is found to have a significant impact on operations at a Protected Intersection, the project may be approved by funding off-setting improvements to pedestrian, bicycle, and transit facilities that enhance the capacity of the transportation in the project area. The City's Transportation Impact Policy (also referred to as the Level of Service Policy) is intended to protect pedestrian and bicycle facilities from undue encroachment by automobiles.

Envision San José 2040 General Plan

The Circulation Element of the General Plan contains various long-range goals and policies that are intended to:

- provide a transportation network that is safe, efficient, and sustainable (minimizes environmental, financial, and neighborhood impacts);
- improve multimodal accessibility to employment, housing, shopping, entertainment, schools, and parks;
- create a city where people are less reliant on driving to meet their daily needs; and
- increase bicycle, pedestrian, and transit travel, while reducing motor vehicle trips.

Various policies in the City's General Plan have been adopted for the purpose of reducing or avoiding impacts related to transportation. Those most applicable to the project are listed below.

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-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand

[51] Examples of unacceptable impacts include reducing the width of a sidewalk or bicycle lane below the city standard or creating unsafe pedestrian operating conditions.

existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

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-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.

Policy CD-3.3: Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

4.16.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. 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?	☐	☐	☒	☐	1-3, 18
2. 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?	☐	☐	☒	☐	1-3, 18

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
3. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	15
4. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☒	☐	1-3, 18
5. Result in inadequate emergency access?	☐	☐	☒	☐	1
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	1-3, 18

4.16.2.1 *Overview of Traffic Conditions Evaluated*

Vehicle traffic conditions were evaluated for the following scenarios:

Existing Conditions. Existing traffic volumes were obtained from new manual turning-movement counts conducted in 2014 and 2015. These counts have been reviewed and approved by the City of San Jose Department of Transportation (DOT) for use in this traffic impact analysis. New count data are included in Appendix A.

Existing Plus Project Conditions. Existing plus project peak hour traffic volumes were estimated by adding to existing traffic volumes the additional traffic generated by the project. Existing plus project conditions were evaluated relative to existing conditions in order to determine the effects the project would have on existing traffic conditions.

Background Conditions. Background traffic volumes were estimated by adding to existing peak hour volumes the projected volumes from approved but not yet completed developments. The added traffic from approved but not yet completed developments was provided by the City of San Jose in the form of the Approved Trips Inventory (ATI).

Background Plus Project Conditions. Projected near-term peak hour traffic volumes with the project were estimated by adding to background traffic volumes the additional traffic generated by the project. Background plus project conditions were evaluated relative to background conditions in order to determine potential project impacts according to the City of San Jose Level of Service Policy.

Future Growth Conditions. The two CMP study intersections were evaluated for future growth conditions, as stipulated by the CMP guidelines. Future growth conditions are represented by future traffic volumes, at the estimated date of project occupancy, on the

future roadway network. Traffic volumes under future growth conditions were estimated by applying an annual growth factor of 1.2 percent to existing volumes, adding trips from approved developments, and adding project trips. The future growth evaluation is included along with the cumulative impact analysis in ***Section 4.18, Mandatory Findings of Significance***.

4.16.2.2 *Traffic Impact Criteria*

City of San José – Local Signalized Intersections

Based on City of San José criteria, a project would cause a significant impact at a signalized intersection if the additional project traffic causes one of the following peak-hour impacts:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under existing or 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.

Congestion Management Program

Intersections

The definition of a significant impact at a CMP intersection is the same as for the City of San José, except that the CMP standard for acceptable LOS is LOS E or better. Thus, a CMP intersection that operates at LOS F would fail to meet the CMP LOS standard.

Highways

The CMP defines an acceptable level of service for freeway segments as LOS E or better. A project is said to create a significant impact on traffic conditions on a freeway segment if for either peak hour:

- The level of service on the freeway segment degrades from an acceptable LOS E or better under existing conditions to an unacceptable LOS F with the addition of project trips, *or*

- The level of service on the freeway segment is already operating at an unacceptable LOS F *and* the number of project trips added to the segment constitutes at least one percent of capacity of the segment.

4.16.2.3 *Trip Generation Estimates*

The CMP requires a transportation analysis to be prepared when a project would add 100 or more peak hour trips to the roadway network. Projects that generate fewer than 100 trips in either peak hour are presumed to have a less than significant impact on the LOS of local intersections that would carry project traffic.

Rezoning of the project site would allow development of up to 440 residential units and 3,000 square feet of retail space. For the purposes of this analysis, it was assumed that 320 of the residential units would be apartments and 120 would be condominiums. In addition, the proposed 3,000 square feet of retail space is intended to serve residents of the site and users of Tamien Station, therefore it is not expected to generate additional vehicle trips. As shown in Table 4.16-5 below, the proposed project would generate over 100 net new peak hour vehicle trips.

Table 4.16-5 Estimated Project Trip Generation

Land Use	Size	Daily Trips	AM Peak Hour	PM Peak Hour
Existing				
Child Care Center[a]	90 students	394	72	73
Proposed Uses				
Apartments[b]	320 units	1,920	192	192
Condominiums[b]	120 units	900	90	90
(Transit reduction)[c]		*-254*	*-25*	*-25*
Total project trips		2,566	257	257
Net New Project Trips		**2,172**	**185**	**184**

[a] Institute of Transportation Engineers (ITE) rates for Day Care Center (565) were used. Average rates were applied.
[b] Trip rates for Apartment and Condominium were based on *City of San José Traffic Impact Analysis Handbook*. 2009.
[c] A 9% transit reduction was applied because the project site is located within 2,000 feet of light rail and Caltrain station. Santa Clara VTA. *TIA Guidelines*. October 2014.
Source: Hexagon Transportation Consultants. *1197 Lick Avenue – Tamien Station Transit Oriented Development Transportation Impact Analysis*. September 21, 2015.

The proposed project would increase daily peak-hour vehicle trips by 185 in the morning peak-hour and 184 in the evening. To evaluate the potential for these vehicle trips to impact local intersections and freeways, a project-specific Transportation Impact Analysis (TIA) was prepared consistent with the VTA guidelines (refer to Appendix F).

4.16.2.4 *Existing Plus Project Traffic Operations*

Intersections

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. To evaluate impacts at intersections, vehicle trips from the proposed development are distributed regionally based on estimated destinations (e.g. San Francisco, Silicon Valley, etc.) and are then assigned locally based on existing travel patterns, the locations of complementary land uses, and freeway access points. This process of

trip distribution and assignment is a critical step in determining how many project-generated vehicle trips will be added to various intersections in the project area. Refer to Figures 6 and 7 of the TIA (Appendix F of this Initial Study) for details regarding the project's trip distribution and assignment. The results of the Existing Plus Project analysis are in Table 4.16-6 below.

Table 4.16-6 Study Intersection Level of Service – Existing Plus Project Conditions

Intersection		Peak Hour	Existing		Existing Plus Project	
			Average Delay	LOS	Average Delay	LOS
1	Bird Avenue & Willow Street	AM PM	32.5 32.1	C C	32.6 32.2	C C
2	Vine Street & Willow Street	AM PM	8.0 16.2	A B	8.0 16.3	B B
3	Almaden Avenue & Willow Street	AM PM	16.5 15.2	B B	16.7 15.1	B B
4	South First Street & Willow Street (CMP)	AM PM	5.9 5.8	A A	6.3 6.0	A A
5	South First Street & Alma Avenue (CMP)	AM PM	40.7 45.2	D D	41.0 45.5	D D
6	Almaden Avenue & Alma Avenue	AM PM	19.1 29.1	B C	19.4 29.1	B C
7	Vine Street & Alma Avenue	AM PM	11.1 18.9	B B	11.0 19.0	B B
8	Lick Avenue & Alma Avenue	AM PM	13.1 21.7	B C	16.4 23.9	B C
9	Lelong Street & Alma Avenue	AM PM	35.4 32.9	D C	35.7 33.0	D C
10	Bird Avenue & Minnesota Avenue	AM PM	35.8 37.2	D D	36.0 37.3	D D

Analysis of the existing plus project intersection operations concluded that all of the study intersections would continue to operate at an acceptable LOS under project conditions. **(Less Than Significant Impact)**

Freeway Segments

Freeway segments were analyzed during AM and PM peak hours to calculate the amount of project traffic that would be added to the nearby freeways. Traffic volumes on the study freeway segments were estimated by adding project trips to the existing volumes obtained from the 2012 CMP Annual Monitoring Report. The results of the analysis, which are included in detail in Table 9 of Appendix F of this Initial Study, show that the project would not cause significant increases in traffic volumes (one percent or more of freeway capacity) on any of the study freeway segments currently operating at LOS F. **(Less Than Significant Impact)**

4.16.2.5 *Background Plus Project Traffic Operations*

The LOS of the study intersections was calculated under background plus project conditions. Background traffic conditions include existing traffic conditions and traffic generated by developments approved prior to the proposed project in the vicinity of the site. The added traffic from approved but not yet constructed developments was obtained from the City of San José's Approved Trips Inventory. In addition, data from the traffic study prepared for the approved Tamien Station Parking Structure project (on the west side of Tamien Station) was incorporated into the background condition. Refer to Appendix F for additional detail regarding background conditions.

This analysis assumes that, with one exception, the roadway network under background and background plus project conditions will be the same as the existing transportation network. The analysis assumes that a new traffic signal will be installed at the intersection of Lelong Street and the SR 87 off-ramp as part of the VTA Tamien Station Parking Structure project. That project has been approved and funded by VTA, therefore it is reasonable to expect that the signal improvement would be in place as part of the background condition.

The results of the background plus project conditions analysis are summarized in Table 4.16-7 below.

Table 4.16-7 Study Intersection Level of Service – Background Plus Project Conditions

Intersection		Peak Hour	Background		Background Plus Project	
			Average Delay	LOS	Average Delay	LOS
1	Bird Avenue & Willow Street	AM	33	C	33.1	C
		PM	33.2	C	33.3	C
2	Vine Street & Willow Street	AM	8.0	A	7.9	A
		PM	16.5	B	16.7	B
3	Almaden Avenue & Willow Street	AM	17.2	B	17.5	B
		PM	15.2	B	15.2	B
4	South First Street & Willow Street (CMP)	AM	6.0	A	6.4	A
		PM	6.1	A	6.3	A
5	South First Street & Alma Avenue (CMP)	AM	45.9	D	46.2	D
		PM	50.1	D	50.5	D
6	Almaden Avenue & Alma Avenue	AM	22.0	C	22.3	C
		PM	30.7	C	30.8	C
7	Vine Street & Alma Avenue	AM	10.3	B	10.2	B
		PM	19.9	B	19.9	B
8	Lick Avenue & Alma Avenue	AM	13.5	B	16.3	B
		PM	19.1	B	22.2	C
9	Lelong Street & Alma Avenue	AM	40.3	D	41.3	D
		PM	35.5	D	35.9	D

Table 4.16-7 Study Intersection Level of Service – Background Plus Project Conditions						
Intersection		**Peak Hour**	**Background**		**Background Plus Project**	
			Average Delay	**LOS**	**Average Delay**	**LOS**
10	Bird Avenue & Minnesota Avenue	AM PM	36.5 39.4	D D	36.7 39.6	D D
11	Lelong Street & SR 87 Off-Ramp (future signal)	AM PM	40.5 29.8	D C	44.8 31.5	D C

Analysis of the background plus project intersection operations concluded that all of the study intersections would continue to operate at an acceptable LOS under background plus project conditions. **(Less Than Significant Impact)**

4.16.2.6 *Impacts to Bicycle, Pedestrian, and Transit Facilities*

Pedestrian and Bicycle Facilities

One of the goals of the City's General Plan is to encourage all development projects to accommodate multi-modal and non-automobile transportation modes. The adopted City Bike Master Plan establishes goals, policies, and actions intended to make bicycling a part of daily life in San José. While there are no established numeric criteria for evaluating impacts to pedestrian and bicycle facilities, the following discussions evaluate, in part, whether future development would conflict with adopted plans and policies, or decrease the performance or safety of such facilities.

Pedestrian Facilities

Pedestrian facilities consist mostly of sidewalks along the streets in the immediate vicinity of the project site. Crosswalks with pedestrian signal heads and push buttons are located at all of the signalized intersections in the study area. Crosswalks are also located on Lick Avenue at both project driveways. Pedestrian access from Lick Avenue to Tamien Station would remain with implementation of the proposed project. Overall, the existing network of sidewalks exhibits good connectivity and would provide new residents with safe routes to transit services and other points of interest in the area.

Bicycle Facilities

Many roadways in the study area have bicycle facilities and more are planned (see Figure 4.16-2 above). The Guadalupe River multi-use trail system is accessible from the project site, and bicycles are allowed on LRT trains and Caltrain. The City's General Plan identifies the bicycle commute mode split target as 15 percent or more for the year 2040. This calculates to 39 new bicycle trips or more during both the AM and PM peak hours of traffic. This level of bicycle mode share is a reasonable goal for the project, particularly if Caltrain and LRT services are utilized in combination with bicycle commuting.

Transit Services

The project site is located adjacent to Tamien Station, which is expected to result in considerable use of transit services by future residents of the site. The Diridon Station located one stop north of the Tamien Station is served by the Altamont Commuter Express and Amtrak, which provide regional connectivity in addition to the transit services available at Tamien Station.

Due to the convenient location of the Tamien Station, it is reasonable to assume that the City's General Plan target of 20 percent or more of the population using transit would be attainable. This calculates to 51 new transit riders during both the AM and PM peak-hours. The increased transit demand generated by the proposed project could be accommodated by the current available ridership capacities of the transit services in the study area.

The proposed project would not have an adverse effect on existing transit, pedestrian, or bicycle facilities in the study area. **(Less Than Significant Impact)**

4.16.2.7 *Site Access and On-Site Circulation Impacts*

Access

As shown on the General Development Plan, access to the project site would be provided via two full access driveways on Lick Avenue, which would create a two-way loop road. The loop road would contain some parking and would provide access to the parking structures located internal to the proposed buildings. Most residents would use the southern project driveway on Lick Avenue to access the southern entrance to the parking structure proposed within the wrap-style building. The proposed driveways range from 24 to 26 feet in width, and would have five foot sidewalks and landscaping of varying widths. These dimensions would be adequate to serve the project.

Sight Distance

Providing the appropriate sight distance reduces the likelihood of a collision at a driveway or intersection and provides drivers with the ability to exit a driveway or locate sufficient gaps in traffic. Sight distance generally should be provided in accordance with Caltrans standards, which are based on vehicle stopping distances. For driveways on Lick Avenue, which has a posted speed limit of 25 miles per hour, the Caltrans stopping sight distance is 200 feet (based on a design speed of 30 miles per hour). The project includes bulb-outs at both driveways on Lick Avenue, which will provide a pedestrian-friendly environment and improve sight distance for drivers exiting the project site. Based on a review of the geometry of the project site plan, drivers exiting the site would be able to see 200 feet in either direction down Lick Avenue.

On-Site Circulation

The vehicle queueing and delay for outbound vehicles were evaluated at the two project driveways on Lick Avenue under background plus project conditions. Based on the number of vehicles expected to exit the project driveways during the AM and PM peak hours, very little delay is

expected to occur. The delay for vehicles exiting the Loop Road is estimated to be approximately 10 seconds per vehicle, on average, which corresponds to a queue of one or two vehicles.

The loop road would provide emergency vehicle access to all sides of the apartment building and also includes a 40-foot centrally-located loading zone. There is no designated loading zone or emergency access indicated for the podium-style building proposed for the northern portion of the site. Since all development projects are subject to review by key City departments including the Fire Department, emergency vehicle access would be ensured prior to approval of a PD site development permit. Trash staging areas would be provided on the loop road, therefore garbage collection would not be expected to disrupt operations on Lick Avenue.

Overall, on-site circulation, as outlined in the General Development Plan, is expected to perform well, pending review of the final permit-level site plans by the San José Fire Department and Public Works Department. Vehicle circulation in the proposed parking structures could not be reviewed due to a lack of permit-level design detail. This would be reviewed at the site development permit stage by the Department of Public Works as part of the overall plan review.

Implementation of the proposed project would not have any site access, circulation, or sight distance impacts that would have potential to cause safety hazards. **(Less Than Significant Impact)**

4.16.2.8 *Other Transportation Issues*

There are no impact assessment methods that have been adopted by the City Council for impacts related to site access, vehicle queuing, neighborhood impacts, or parking supply. The CEQA Guidelines provide general direction and principles that can be used to analyze the project's effects on these subjects. CEQA Guidelines §15064(b) states:

> *"The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data."*

This analysis of "other transportation impacts" uses data collected as part of the project TIA and calculations in accordance with standards and methods employed in the traffic engineering community to compare the existing conditions to the conditions that are anticipated to exist if the project is approved, constructed, and operated. Not all impacts resulting from a project are environmental, though. The CEQA Guidelines §15064(d) addresses this and states:

> *"In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct <u>physical</u> changes in the environment which may be caused by the project and reasonably foreseeable indirect <u>physical</u> changes which may be caused by the project." [Emphasis added]*

For issues such as vehicle queuing or parking, the significance of a project's contribution to vehicle queues or local parking demand would be determined based on any physical changes to the environment from the project (i.e., increase in traffic leads to increase in vehicle emissions, which could lead to decrease in air quality conditions) or physical changes to the environment required in

order to accommodate the project's contributions. Not all effects can be measured based on physical effects though. For example traffic on residential neighborhood streets may increase but would not necessarily require or result in physical changes in the environment. CEQA Guidelines §15064(e) states:

> *"Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment."*

In addition, the project site is located in a transit priority area.[52] CEQA §21099(d)(1) states that parking impacts of mixed-use residential project on an infill site within a transit priority area shall not be considered significant impacts on the environment.

It is in this context that the analysis of the project's effects on less tangible and measureable transportation issues is written. CEQA affords discretion to the Lead Agency (the City of San José) to evaluate the significance of environmental effects for which thresholds of significance or impact criteria have not been adopted by State, regional, or local agencies with jurisdiction. The analysis in this Initial Study relies to the extent feasible on project-specific data collected for the TIA and on calculations prepared in accordance with the methods and standards of the traffic engineering community. Conclusions about the significance of the project's effects on local transportation are made based on what, if any, direct or indirect physical changes would occur as a result of the project, and the scale of those changes.

Queuing Impacts

An analysis was completed as part of the TIA to determine how many vehicles a future development allowed under the proposed rezoning would add to the vehicle queues for nearby high-demand turn movements. The question that this analysis aims to answer is: do the existing left-turn pockets at affected intersections have adequate storage capacity to accommodate vehicle trips associated with the proposed project? Potential environmental impacts can occur if a project could cause vehicle queues to exceed the length of the turn pocket, unless the project is required to extend the existing turn pocket or construct a new pocket.

A vehicle queuing analysis was completed for the following intersections and movements during both the morning and evening peak-hours:

- Almaden Avenue and Alma Avenue (northbound left)
- Lick Avenue and Alma Avenue (southbound and eastbound left)
- Lelong Street and Alma Avenue (southbound left/through)
- Lick Avenue and Willow Street (northbound and westbound left/through/right[53])
- Lelong Street and Willow street (westbound left)

[52] A transit priority area is defined as an area within one-half mile of a major transit stop that is existing or planned. (CEQA §21099).
[53] This indicates a shared left turn, through, and right turn lane. Thus, the vehicle queues reported reflect the total for all movements at this location and others similarly denoted.

Only those intersections with potentially inadequate vehicle queue storage are described further below. Refer to Appendix F for further detail.

Almaden Avenue and Alma Avenue

The maximum vehicle queue for the northbound left-turn lane at this intersection currently exceeds the existing vehicle storage capacity, and this condition would continue to occur under background and background plus project conditions. The northbound left-turn pocket provides 275 feet of vehicle storage for a capacity of up to 11 vehicles. The 95th percentile queue[54] would be 19 vehicles during the AM peak hour under background conditions, which would require 475 feet of storage. The proposed project would increase the maximum queue by one vehicle, for a total of 20 vehicles. Thus the northbound left-turn pocket would need to be extended by 225 feet in order to provide adequate vehicle storage under background plus project conditions. The proposed project would implement this improvement to reduce excess queues at the intersection.

Lick Avenue and Alma Avenue

The maximum vehicle queue for the southbound left-turn lane at Lick Avenue/Alma Avenue currently exceeds the vehicle storage capacity during the evening peak-hour, and would continue to do so in the background and background plus project conditions. There is currently 200 feet of storage capacity available, or enough for eight vehicles. With implementation of the proposed project, the 95th percentile queue would be nine vehicles. The southbound left-turn pocket could be extended by re-striping the turn pocket.

The eastbound left-turn pocket provides sufficient vehicle storage capacity in both the current and background traffic conditions. The proposed project would cause vehicle queues at this location to exceed capacity by two cars in the PM peak hour. Extending this queue by the 50 feet needed would require removal of a short segment of raised median and restriping.

Lelong Street and Alma Avenue

The maximum vehicle queue for the southbound shared through/left-turn lane at Lelong Street/Alma Avenue currently exceeds the existing vehicle storage capacity, and would continue to do so under background and background plus project conditions. The pocket provides 225 feet of storage for up to nine vehicles. The 95th percentile queue would be 27 vehicles during the PM peak hour in background conditions and 28 vehicles in background plus project conditions. To accommodate the background plus project scenario, the pocket would need to be extended 475 feet. This is not possible, however, due to the existing southbound left-turn pocket that provides access to the Tamien light-rail station just to the north.

[54] Left-turn pockets are designed based on the 95th percentile queue length, which is the longest queue that will exist for 95 percent of the peak-hour signal cycles. This means that the storage capacity of a left-turn pocket constructed to the 'design queue length' would be exceeded during five percent of the peak-hour signal cycles.

Parking

The project site is located in a transit priority area, as defined by CEQA, which means that impacts pertaining to the adequate provision of parking cannot be considered significant impacts on the environment. Parking is described in this analysis for informational purposes and is discussed in relation to the City of San José's parking standards.

Vehicles

Although the TIA analyzed a project size of up to 440 residential units in order to present a worst-case traffic scenario, the project currently being proposed for the rezoning request consists of 408 residential units. For this reason, future parking demand was estimated based on two possible development scenarios:

- Scenario 1 – 440 units: 218 one-bedroom, 211 two-bedroom, and 11 three-bedroom units.
- Scenario 2 – 408 units: 205 one-bedroom, 198 two-bedroom, and 5 three-bedroom units.

Since the small retail component of the project is intended to serve the project and current Tamien Station users only, it is assumed that no parking would be needed for the retail use.

The City of San José normally requires 1.25 parking spaces for studio and one-bedroom units, 1.7 parking spaces for two-bedroom units, and 2.0 parking spaces for three-bedroom units. This would correspond to 654 parking spaces for the 440 unit scenario and 603 parking spaces for the 408 unit scenario. This calculation does not include parking reductions for proximity to transit.

The project proposes to provide a total of 585 parking spaces: a 139-space parking garage as part of the condominium structure (4/5-story podium), a 415-space parking garage as part of the apartment structure (5-story wrap), and 31 parking spaces located along the new private loop road. The project also proposes to count on-street parking on Lick Avenue to count toward the project's parking requirement.

Since the project site is located within 2,000 feet of an existing rail station, the project qualifies for a 20 percent reduction in the City's parking requirement. This reduction is appropriate for the site because there is a regional transit hub located adjacent to the proposed project. After applying a 20 percent parking reduction, the 440-unit project scenario would require 524 parking spaces, and the 408-unit project scenario would require 483 parking spaces. Since the project is proposing a total of 585 parking spaces, the project would provide an adequate amount of parking regardless of which project scenario is developed. Of the 585 planned parking spaces, 554 spaces would be provided between the two parking structures. Since this number of parking spaces would meet the project parking demand, the 31 parking spaces located along the private loop road could be used strictly for visitor parking.

Motorcycle and Bicycle Parking

The City requires one motorcycle parking space and one bicycle parking space for every four residential units. Thus, the 440-unit project scenario would require 110 motorcycle and bicycle spaces, and the 408-unit project scenario would require 102 motorcycle and bicycle spaces. The number of motorcycle and bicycle parking spaces provided would be determined at Planned Development permit stage. In general, future development would be required to comply with the City of San José bicycle and motorcycle parking requirements.

The proposed project would provide adequate vehicle parking and would not be expected to cause spill-over parking onto surrounding streets.

4.16.2.9 *Air Transportation Safety*

The Norman Y. Mineta San José International Airport is located approximately 3.2 miles northwest of the project site. Refer to ***Section 4.8, Hazards and Hazardous Materials*** for discussion of FAA regulations and air safety. As indicated, the proposed project development would have no impact on air traffic patterns or safety. **(No Impact)**

4.16.3 Conclusion

The proposed project would not result in significant impacts to intersection or freeway level of service. In addition, the project provides adequate site access, circulation, and sight distance and would not result in safety hazards to pedestrians or bicyclists. The location, size, and design of on-site loading zones and emergency vehicle access would be reviewed by appropriate City of San José departments, and would need to be approved by the respective departments prior to approval of a Planned Development permit. Therefore, the proposed project would not result in any potentially significant transportation impacts. **(Less Than Significant Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 *Water*

Water service to the site is supplied by the San José Water Company. Potable (i.e. drinkable) water is used on the site for the child care center, landscaping, and trees. There are currently 90 children enrolled at the child care center. Based on the water use rates used in the California Emissions Estimator Model (CalEEMod) maintained by the California Air Pollution Control Officers Association (CAPCOA), day care centers use an estimated 2,424 gallons per student per year for indoor water and 6,234 gallons per student per year for outdoor water (e.g. landscaping).[55] Using this factor, the existing child care center uses approximately 779,220 gallons of potable water per year. Of this, 218,160 gallons are used indoors.

4.17.1.2 *Wastewater*

Sanitary sewer lines in the area are owned and maintained by the City of San José. The General Plan FPEIR 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). Wastewater flow rates are assumed to be 85 percent of indoor potable water use, therefore, the existing child care center generates an estimated 185,436 gallons of wastewater per year.

Based on the General Plan FPEIR, the City's average dry weather wastewater flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José Santa Clara Regional Wastewater Facility (Facility) is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

4.17.1.3 *Stormwater*

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 the Guadalupe River, which carries stormwater from the storm drains into the San Francisco Bay. Stormwater from the project site currently drains to inlets lining the loop road. The project site currently contains just over 160,000 square feet of impervious surfaces and 159,000 square feet of pervious, unpaved areas.

There is a 12-inch diameter[56] stormwater pipe in Humboldt Street with a 10-inch lateral that extends onto the northeast corner of the project site.[57] There is also a 15-inch pipe in Lick Avenue that extends from Alma Avenue to approximately 150 feet south of the project site.

[55] California Air Pollution Control Officers Association. *California Emissions Estimator Model User's Guide, Version 2013.2*. July 2013. Appendix D, Table 9.1.
[56] Stormwater pipe measurements in this section refer to the diameter of the pipe unless otherwise noted.
[57] City of San José. *Storm Drain*. Map. Accessed July 17, 2015. Available at: http://csj-mapsgallery.appspot.com/index.html

4.17.1.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2008, the City of San José diverted approximately 60 percent of the waste generated in the City. According to the IWMP, the 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. Currently, the City has a solid waste diversion rate of 74 percent.[58] 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.

Based on CalEEMod waste generation rates, the existing day care center generates approximately 0.18 tons of solid waste per student per year.[59] With 90 students currently enrolled, the existing child care generates an estimated 16.2 tons of solid waste per year.

4.17.1.5 *Applicable Plans, Policies, and Regulations*

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José.

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.

Action 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.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

San José Zero Waste Strategic Plan/Green Vision

The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Green Vision goals, including 75 percent diversion

[58] City of San José. *Green Vision Annual Report: 2013*. Accessed June 12, 2015. Available at: http://www.sanjoseca.gov/documentcenter/view/27914

[59] California Air Pollution Control Officers Association. *California Emissions Estimator Model User's Guide, Version 2013.2*. July 2013. Appendix D, Table 10.1.

by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

4.17.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐	1 – 3
2. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	2, 19
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	2, 19
4. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐	2, 19
5. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	2, 19
6. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐	2, 19
7. Comply with federal, state and local statutes and regulations related to solid waste?	☐	☐	☒	☐	1 – 3

4.17.2.1 *Water Impacts*

Currently, the project site uses approximately 780,000 gallons of potable water per year. Future residential development allowed under the rezoning is estimated to use 65,154 gallons of potable water per unit per year, based on the CalEEMod indoor water use rate for mid-rise apartments.[60]

[60] California Air Pollution Control Officers Association. *California Emissions Estimator Model User's Guide, Version 2013.2*. July 2013. Appendix D, Table 9.1.

This rate is similar to that assumed by the San José Municipal Water System in its Water Supply Assessment for the San José General Plan EIR.[61] There is minimal outdoor space to be irrigated as part of the project, therefore any increases in outdoor water use over the existing condition is assumed to be negligible. Assuming a maximum development scenario of 440 residential units, the proposed apartments would use approximately 28.7 million gallons of water per year. Based on the CalEEMod rate for strip malls, the proposed 3,000 square feet of retail space would use approximately 222,000 gallons of water per year. Therefore, the proposed project would use just under 29 million gallons of potable water per year, which is 28.2 million more than currently used on the project site.

The General Plan FPEIR determined that the three water suppliers for the City could serve planned growth under the General Plan until 2025. Water demand could exceed water supply with implementation of the General Plan during dry and multiple dry years after 2025. The General Plan contains specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The General Plan FPEIR concluded that with implementation of existing regulations and adopted General Plan policies, full build out under the General Plan would not exceed the available water supply under standard conditions and drought conditions.

The proposed project is consistent with planned growth in the General Plan and will comply with the policies and regulations identified in the General Plan FPEIR. The proposed buildings would also meet the water use efficiency standards set in the latest California Building Code. Therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **(Less Than Significant Impact)**

4.17.2.2 *Wastewater Impacts*

The existing child care center generates an estimated 185,400 gallons of wastewater per year, or just over 500 gallons per day, on average. Wastewater flow rates are assumed to be 85 percent of indoor potable water use, therefore, the proposed project would generate 24,565,000 gallons of wastewater per year for an average of 67,300 gallons per day. Wastewater generated from the retail spaces would be limited to approximately 700 gallons per day. The proposed project is estimated to increase wastewater generated by the site by 67,500 gallons per day.

As stated above, the City currently has approximately 38.8 mgd of excess treatment capacity at the Facility. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FPEIR, 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 General Plan would not exceed the City's allocated capacity at the Facility. The proposed project is consistent with the development assumptions in the General Plan for urban land use designations. Therefore, implementation of the proposed project would have a less than significant impact on the Facility. **(Less Than Significant Impact)**

[61] San José Municipal Water System. *Water Supply Assessment for Envision San José 2040 General Plan Update.* September 2010. Prepared by Todd Engineers. Available at: http://www.sanjoseca.gov/index.aspx?NID=2435

4.17.2.3 *Stormwater Impacts*

The proposed rezoning and ultimate redevelopment of the site would increase impervious surfaces by just under 65,000 square feet, or 1.5 acres. The increase would result primarily from development on the vacant northern portion of the site, which is almost entirely pervious in the existing condition.

As detailed in ***Section 4.9, Hydrology and Water Quality***, future development under the proposed rezoning would be required to implement stormwater treatment and drainage measures consistent with City of San José Policy 6-29 and provision C.3 of the Municipal Regional NPDES permit for post-construction stormwater treatment. On-site storm drainage would connect to the existing storm drain system adjacent to the entrance to Tamien Station. Based on the conceptual stormwater control plan, the project would convert two catch basins to manholes with high-flow bypasses. The City's system, which ultimately drains to the Guadalupe River, would not need to be substantially expanded to accommodate runoff from the proposed project. Therefore, the proposed project would not create stormwater runoff which would exceed the capacity of existing stormwater drainage systems. **(Less Than Significant Impact)**

4.17.2.4 *Solid Waste Impacts*

Apartments and townhouses are estimated to generate 0.46 tons of solid waste per unit per year. Using a maximum unit count of 440 units, the proposed project would generate up to 202.4 tons of solid waste per year.[62] This is an increase of 186.2 tons per year over the existing condition.

The San José General Plan FPEIR found that estimated increases in solid waste generation resulting from development under the General Plan would not exceed the existing and planned capacities of landfills serving the City of San José. The proposed project is consistent with the City of San José General Plan designation for the site; therefore, solid waste generated by the project would be consistent with the waste generation projected in the General Plan FPEIR and the project would have less than significant solid waste impacts. **(Less Than Significant Impact)**

4.17.3 Conclusion

The proposed development is consistent with the development assumptions made for the site in the General Plan FPEIR, and would not generate demand for water, wastewater, or solid waste services beyond that assumed for the site in the FPEIR. Since the FPEIR found that there would be adequate capacity for future growth, the proposed project would not cause significant impacts to those utility services. With implementation of the proposed stormwater control plan, the proposed project would not exceed the capacity of stormwater facilities. **(Less Than Significant Impact)**

[62] Ibid.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐	1 – 19
2. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☒	☐	☐	1 – 19
3. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐	1 – 19

4.18.1 *Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

Future construction allowed under the proposed rezoning would result in the removal of some or all of the 147 trees on the project site. Potentially significant impacts to nesting birds and raptors would be mitigated through implementation of seasonal avoidance measures and preconstruction bird surveys, should construction occur between February and August. Standard tree replacement requirements would ensure long-term minimization of impacts to existing trees on the project site.

The project has potential to impact subsurface prehistoric resources and Native American human remains. A site-specific Cultural Resources Treatment Plan has been developed to identify specific measures to implement to avoid significant impacts to resources that are potentially eligible for federal or state listing as historic resources. Through strict adherence to this mitigation program and ongoing consultation with appropriate Native American tribe representatives, the proposed project would not result in a significant impact to a prehistoric resource. **(Less Than Significant Impact With Mitigation)**

4.18.2 *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

Section 15355 of the CEQA Guidelines defines cumulative impacts as two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant projects taking place over a period of time. CEQA Guidelines Section 15130(b) advises that a discussion of cumulative impacts should reflect both the severity of the impacts 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 effects of past projects are generally reflected in the existing conditions described in the specific sections of this Initial Study. For instance, the traffic from recently-approved projects is reflected in the Background Conditions described in ***Section 4.16, Transportation***. Therefore, CEQA requires that the impacts of implementing the proposed project be analyzed in conjunction with other related past, current, and probable future projects whose impacts might compound or interrelate with those of the project.

The discussion below 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 project which is the subject of this Initial Study be cumulatively considerable. Per CEQA Guidelines Section 15064(h)(1), "cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past, current, and probable future projects. The CEQA Guidelines state that a Lead Agency has discretion to determine if a project's contribution to a significant cumulative impact is cumulatively considerable.

Air Quality and Greenhouse Gas Emissions Impacts

Emissions affecting air quality and contributing to the accumulation of GHGs are by their nature regionally and globally cumulative impacts. Air quality impacts from construction of the proposed project would be mitigated such that health risks to nearby receptors would not exceed the BAAQMD project-level or cumulative health risk impact thresholds. As discussed in ***Section 4.3 Air Quality*** and ***Section 4.7 Greenhouse Gas Emissions***, the proposed project would not substantially contribute to long-term cumulative air quality impacts or GHG emissions. **(Less Than Significant Cumulative Impacts)**

Biological Resources

Build-out of approved and pending development projects would result in the disturbance of vegetation and habitats in the City of San José. Typically, these individual projects are required to incorporate mitigation measures to reduce impacts to special-status species and habitats to a less than

significant level, and are required to comply with state and federal laws and regulations for the protection of special status species.

As discussed in ***Section 4.4, Biological Resources***, future development under the proposed project would remove and replant trees and could have impacts on migratory birds if they are present in the project vicinity during construction. These potential impacts would be reduced to a less than significant level through the implementation of mitigation and avoidance measures included in the project. The project would not impact sensitive habitats, including riparian habitats or wetlands. Future development under the proposed rezoning would be required to contribute nitrogen deposition fees to the Santa Clara Valley Habitat Plan to compensate for regional nitrogen deposition impacts to serpentine habitat. Therefore, the project would not substantially contribute to or result in a significant cumulative impact on special status species or other biological resources. **(Less Than Significant Cumulative Impact)**

Noise and Vibration

Noise

The proposed California High Speed Train (HST) would pass through Tamien Station adjacent to the site. If approved and constructed, the HST could substantially alter the noise and vibration environment within which the project is proposed. Representative noise and vibration data for the proposed California High Speed Rail Project was obtained from various sources, as detailed in Appendix E of this Initial Study. For the purpose of this analysis, credible worst case assumptions were made regarding the speed, frequency, location of right-of-way, and other factors influencing train noise and vibration. This analysis assumes that trains will travel on an aerial platform (approximately 24 feet above grade) past the site at maximum speeds of 125 miles per hour or less. The average train frequency on a given alignment segment would be approximately 10 trains per hour per direction, although the frequency of pass-bys would vary throughout the day.

Using data from the California HST Program EIR/EIS, day-night average noise levels are anticipated to range from 60 - 70 dBA L_{dn} at the eastern boundary of the site, and maximum noise levels generated by a passing HST are anticipated to reach approximately 75 to 80 dBA L_{max}. The HST would make an incremental contribution to the total noise level of up to three dBA L_{dn}, and maximum noise levels from trains passing by would be below the noise levels generated by trains utilizing the existing corridor. Therefore, impacts to future development from future noise levels associated with the proposed HST would be less than significant. **(Less Than Significant Cumulative Impact)**

Vibration

Using data from the California HST Program EIR/EIS, the vibration level resulting from a train traveling at-grade at 125 mph at a distance of 200 feet from the tracks would be approximately 70 VdB, increasing to about 75 VdB at a speed of 200 mph. Where speeds are expected to be low, the vibration is confined to within 100 feet of the track. The impact threshold is 72 VdB, therefore trains traveling at higher speeds may cause an exceedance of the vibration threshold. An adjustment of 10 VdB, however, is subtracted from the reference level for a train traveling on an aerial platform. If the

design option for an aerial structure is selected, projected vibration levels at proposed residents would be below the impact threshold. If the train is placed at-grade, then the proposed project may be exposed to significant vibration levels.

If the high-speed rail is constructed at-grade through Tamien Station, future vibration levels on the site would exceed Federal Transit Administration guidelines for vibration. If the HST is placed at-grade and train speeds exceed 125 mph opposite the site, vibration mitigation would need to be incorporated into the HST project design. The City of San José will continue to coordinate with the California High Speed Rail Authority to ensure that HST incorporates appropriate mitigation measures in the vicinity of the project site.

It is anticipated that future residential development would be constructed on the site prior to adoption of a final design for HST. With the incorporation of appropriate mitigation and attenuation into the future HST project, future residents of the project site would not be exposed to significant and unavoidable vibration impacts. **(Less Than Significant Cumulative Impact)**

Traffic Impacts

Traffic volumes under cumulative conditions were estimated by applying to the existing traffic volumes an annual growth rate of 1.2 percent for five years, adding trips from approved developments, and adding project-generated vehicle trips. The 1.2 percent growth rate is consistent with growth rates that have been used in other traffic studies prepared for projects in Santa Clara County to account for traffic growth attributable to potential future projects. The analysis assumes that the transportation network under future conditions would be the same as described under existing conditions, with the exception of the addition of a signal at Lelong Street and the SR 87 ramps.

Two study intersections were evaluated for future growth conditions, as stipulated by the Congestion Management Program guidelines. These intersections are South First Street/Willow Street and South First Street/Alma Avenue. The cumulative level of service analysis found that these two intersections would operate at level of service A and D, respectively. Therefore, the proposed project is not projected to contribute to significant cumulative traffic impacts. **(Less Than Significant Cumulative Impact)**

4.18.3 *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

Construction-related air and noise emissions have potential to adversely impact residents in the vicinity of the project site. Mitigation measures have been incorporated to reduce these impacts to less than significant levels. Subsurface testing has identified hazardous contamination on the project site. With the implementation of a Voluntary Cleanup Program and remedial measures deemed necessary by the appropriate oversight agency, impacts from hazardous materials to future residents of the project site would be less than significant. The project includes mitigation measures to reduce long-term noise and air quality impacts to future residents of the site as well. The project would adhere to relevant building codes and follow the recommendations of a site-specific geotechnical report in order to avoid and mitigate potential seismic hazards. Potential impacts to the environment

and to human health would be less than significant with incorporation of mitigation and avoidance measures into the proposed project. **(Less Than Significant Impact With Mitigation)**

Checklist Sources

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