Draft Environmental Impact Report

# Blossom Hill Station Mixed-Use Project

File No.: SP20-012

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

In Consultation with

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ENVIRONMENTAL CONSULTANTS & PLANNERS

March 2022

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# SUMMARY

The following is a summary of the significant impacts and mitigation measures addressed within this Draft EIR. The project description and full discussion of impacts and mitigation measures can be found in Section 2.0 Project Information and Description, Section 3.0 Environmental Setting, Impacts, and Mitigations, and Section 4.0 Cumulative Impacts.

| Significant Impacts | Mitigation Measures |
|---|---|
| ***Air Quality*** | |
| **Impact AIR-1:** Construction activities associated with the proposed project would expose sensitive receptors near the project site to Toxic Air Contaminant emissions in excess of the BAAQMD cancer risk threshold of >10 per million. | **MM AIR-1.1:** Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or the Director's designee 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 below.<br><br>• All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall, at a minimum, meet U.S. EPA Tier 4 final emission standards for particulate matter (PM10 and PM2.5).<br>• If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. Environmental Protection Agency (EPA) emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 88 percent or greater reduction in particulate matter exhaust in comparison to uncontrolled equipment.<br>• Use of alternatively fueled or electric equipment.<br>• Stationary cranes and construction generator sets shall be powered by electricity.<br><br>Alternatively, the project applicant could develop a plan that reduces on- and near-site construction emissions by a minimum 88 |

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| | percent or greater. The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest). |
| ***Biological Resources*** | |
| **Impact BIO-3:** Demolition, grading, construction activities, and tree removal during the nesting season could impact nearby migratory birds and raptors. | **MM BIO-3.1:** Avoidance. The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.<br><br>**MM BIO-3.2:** Nesting bird surveys. If demolition and construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.<br><br>**MM BIO-3.3:** Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present. |

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| | **MM BIO-3.4:** Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or building permits. |
| ***Cultural Resources*** | |
| **Impact CUL-1:** Ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources. | **MM CUL-1.1:** Prior to issuance of any Grading Permit, the project applicant shall submit evidence to the Director of Planning, Building, and Code Enforcement or the Director's designee that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative from a California Native American tribe that has consulted on the project, is registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.<br><br>**MM CUL-1.2:** Prior to the issuance of any demolition or ground disturbance permits, the project applicant shall retain a qualified archaeologist to perform an extended Phase I Archaeological investigation of the project site including mechanical subsurface exploration. Subsurface exploration shall be conducted using either a backhoe or truck-mounted coring rig depending on the project restrictions. Subsurface soils samples shall be analyzed by a qualified archaeologist to determine the potential for buried cultural resources within the project site.<br><br>**MM CUL-1.3:** If any archaeological resources are exposed, then a research design and treatment plan shall be prepared by a qualified archeologist that is tailored to the kind(s) of resources identified. Once the research design and treatment plan is approved by the Director of Planning, Building and Code Enforcement or the Director's designee, testing can begin. Testing shall be commensurate with the level of proposed impacts. After field testing, an evaluation report shall be prepared documenting |

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| | the field work, analyzing the cultural materials recovered, defining the resource boundaries within the current project area of potential effect, and evaluating the resource to both the National Register of Historic Places and the California Register of Historic Resources. A Native American monitor is required during archaeological testing of any Native American resources. Once all of the steps outlined above have been completed, the project will be in compliance with Section 106 and CEQA.<br><br>**MM CUL-1.4:** Prior to issuance of any grading permits, the applicant shall engage a Native American monitor registered with the NAHC to be present at the project site during all demolition and ground disturbance activities. Submit a copy of the agreement to the Director of Planning, Building, and Code Enforcement or the Director's designee. |
| ***Hazards and Hazardous Materials*** | |
| **Impact HAZ-1:** Project construction could result in health risks to construction workers and nearby sensitive receptors from exposure to residual agricultural chemicals in the soil during ground disturbing activities. | **MM HAZ-1.1:** Prior to issuance of a demolition or grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use. The Phase II shall include shallow soil sampling and analysis for organochlorine pesticides and pesticide-based metals, arsenic and lead to determine if these chemicals are present above Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs) for construction worker safety and residential uses. The results of the soil sampling and testing must be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Environmental Compliance Officer.<br><br>If the Phase II results indicate soil concentrations above the RWQCB ESLs, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to |

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| | ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Environmental Compliance Officer. |
| ***Noise*** | |
| **Impact NOI-1:** Project construction would occur for more than one year and would be located within 500 feet of residential uses, exceeding the City's threshold of significance for construction noise impacts. | **MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator to respond 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. The noise disturbance coordinator shall be in place prior to the start of construction. The noise logistic plan shall be signed by a qualified acoustical specialist verifying that this plan meets the reduction of noise levels and shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.<br><br>As a part of the noise logistics plan construction activities for the proposed project shall include, but is not limited to, the following best management practices:<br><br>• In accordance with Policy EC-1.7 of the City's General Plan, use the best available noise suppression devices and techniques during construction activities.<br>• Use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. Equip all internal combustion engines with adequate mufflers and maintain all equipment in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.<br>• Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when |

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| | located within 200 feet of adjoining sensitive land uses.<br>• Erect temporary noise barrier fences that would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.<br>• If stationary noise-generating equipment must be located near receptors, provide adequate muffling (with enclosures where feasible and appropriate). Face any enclosure openings or venting away from sensitive receptors.<br>• Ensure that generators, compressors, and pumps are housed in acoustical enclosures<br>• During final grading, substitute graders for bulldozers, where feasible. Use wheeled heavy equipment which are quieter than track equipment, where feasible.<br>• Substitute nail guns for manual hammering, where feasible.<br>• Substitute electrically powered tools for noisier pneumatic tools, where feasible<br>• Prohibit unnecessary idling of internal combustion engines.<br>• Locate staging areas and stationary noise-generating equipment, including but not limited to cranes, as far as possible from noise-sensitive receptors, such as residential uses (a minimum of 200 feet)<br>• The surrounding neighbors within 500 feet of the project site shall be notified two weeks prior to the start of construction of each construction phase; and the notice shall include how to report complaints of excessive noise.<br>• Conspicuously post a telephone number for the disturbance coordinator at the construction site. |
| ***Transportation*** | |
| **Impact TRA-1:** Project generated vehicle miles traveled (VMT) would exceed the City's threshold of 10.12 VMT per capita for residential uses in the area by 2.5 VMT per capita, resulting in a significant VMT impact. | **MM TRA-1.1:** Prior to issuance of occupancy permits, the project applicant shall prepare a Transportation Demand Management (TDM) plan for the project. The TDM plan shall include measures incorporated into the proposed project to reduce the project's |

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| | significant VMT impact by at least 0.74 VMT per capita.<br>• School Pool Program<br>• Subsidized Transit Program<br>• Voluntary Travel Behavior Change and Program<br>The TDM plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. Annual trip monitoring reports shall be submitted that demonstrate that project generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap (102 AM trips and 139 PM trips), the project shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months. |

## Significant Unavoidable Impacts

The proposed project would result in a significant unavoidable VMT impact. A detailed discussion of this impact is included in Section 3.17 Transportation.

## Summary of Alternatives to the Proposed Project

CEQA requires that an Environmental Impact Report (EIR) identify alternatives to the project as proposed. The CEQA Guidelines state that an EIR must identify alternatives that would feasibly attain the most basic objectives of the project but avoid or substantially lessen the project's significant environmental effects or would further reduce impacts that are considered less than significant with the incorporation of identified mitigation. A summary of the project alternatives follows. A full analysis of the project alternatives is provided in Section 7.0 of this Draft EIR.

### 100 Percent Affordable Alternative

Under the 100 Percent Affordable Alternative, Buildings A and B would be constructed in the same location on the project site as under the proposed project and would include a total of 328 affordable dwelling units with no commercial space. Additionally, because no commercial space would be proposed, Building A would be reduced in height from six stories to five stories compared to the proposed project. Building B would be five stories, consistent with the proposed project, on- and off-site trail improvements, parking lot and transit station improvements, and landscaping would be constructed the same as the proposed project. This Alternative would meet the City's VMT screening criteria and avoid the project's significant unavoidable VMT impact. This Alternative would result in some reduction in air quality emissions during construction due to the reduced building size. However, because the length of construction, amount of grading and proximity to sensitive receptors would be similar to the proposed project, construction noise impacts would be comparable to the proposed project. Additionally, because the area disturbed by this alternative would be the same as

the proposed project, impacts to biological and cultural resources would be the same as the proposed project. The 100 Percent Affordable Alternative would meet all of the project objectives to a lesser extent than the proposed project.

No Project – No Development Alternative

The No Project – No Development Alternative would not result in a change in the current development at the site. The existing parking lot, bus stop, and light rail station entrance would remain in operation. The proposed trail connection, trailhead improvements, and the proposed mixed-use development would not be constructed. Because the No Project Alternative would not result in any physical changes to the project site compared to existing conditions, there would be no environmental impacts. However, this alternative would not achieve the project objectives.

No Project – Neighborhood/Community Commercial Development Alternative

This Alternative assumes that if the proposed project were not approved, an alternative development project would be proposed in the future which would conform to the site's Neighborhood/ Community Commercial (NCC) land use designation and be consistent with the growth assumed in the General Plan for the Blossom Hill/Cahalan Urban Village area. Any alternative development plan would likely be a commercial/retail project comparable in scale to the buildings currently proposed and located along the Blossom Hill Road frontage to preserve access to and use of the Blossom Hill Light Rail station. Under the No Project – NCC Development Alternative, construction air quality and noise impacts would be comparable to the proposed project, and impacts to biological resources and cultural resources would be comparable to the proposed project. The degree to which this alternative could have a transportation impact would be dependent on the size of the project.

Reduced Scale Alternative

The Reduced Scale Alternative would develop one mixed-use building containing up to 239 dwelling units and up to 13,590 square feet of commercial space. However, the second residential only building, associated amenities spaces, and parking lot improvements proposed under the project would not be constructed. Eighty-nine of the 239 dwelling units proposed under the Reduced Scale Alternative would be deed-restricted affordable units. Under this Alternative, the on- and off-site trail improvements would be constructed as in the proposed project.

The Reduced Scale Alternative would result in reduced construction related impacts compared to the proposed project, including lower air quality emissions and impacts to nesting birds and cultural resources. Although the distance between construction activities and noise sensitive uses would be greater under this alternative, it would not be enough to measurably reduce construction noise impacts compared to the proposed project. This alternative would result in the same significant unavoidable VMT impact as the proposed project.

The Reduced Scale Alternative would meet all of the project objectives to a lesser extent than the proposed project due to the reduced number of residential units constructed under this alternative.

## Environmentally Superior Alternative

. The 100 Percent Affordable Alternative would be the environmentally superior alternative because it would avoid the project's significant unavoidable VMT impact, and would have similar or less impacts compared to the proposed project in other resource areas.

## Areas of Public Controversy

Areas of public concern identified during the Notice of Preparation (NOP) scoping process include:

- The height of the proposed buildings in relation to the surrounding neighborhoods
- Tree protection and replacement
- Impact to aquatic species
- Emergency access
- Water quality during construction
- Residential density
- Intended population and median incomes for affordable housing units
- Potential for homeless problems to be exacerbated
- Safety concerns on proposed trail connections
- Safety in proximity to schools
- Traffic congestion
- Security measures at Blossom Hill Station, on light rail
- Adequacy of parking (guest parking, customer parking)
- VMT analysis
- Highway ramp queuing
- Wayfinding
- Bicycle and pedestrian improvements and trail connections
- Request for intersections to be analyzed in Local Transportation Analysis

# SECTION 1.0 INTRODUCTION

## 1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

The City of San José, as the Lead Agency, has prepared this Draft Environmental Impact Report (EIR) for the Blossom Hill Station Mixed-Use Project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

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

### 1.1.1 Responsible Agencies

Per CEQA Guidelines Section 15381, all public agencies other than the Lead Agency which have discretionary approval power over the project, shall be considered Responsible Agencies in the CEQA process. In addition to the City of San José as Lead Agency, Valley Water, Santa Clara Valley Transportation Authority (VTA), Santa Clara County Parks and Recreation, and California Department of Transportation (Caltrans) have discretionary approval over portions of the proposed project. Therefore, these agencies are considered Responsible Agencies for the proposed project.

## 1.2 EIR PROCESS

### 1.2.1 Notice of Preparation and Scoping

In accordance with Section 15082 of the CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for this Draft EIR. The NOP was circulated to local, State, and federal agencies on October 2, 2020. The standard 30-day comment period concluded on November 2, 2020. The NOP provided a general description of the proposed project and identified possible environmental impacts that could result from implementation of the project. The City also held a public scoping meeting on October 13, 2020 to discuss the project and solicit public input as to the scope and contents of this Draft EIR. Due to State and local shelter in place orders related to the COVID-19 pandemic, the meeting was held online. Appendix A of this Draft EIR includes the NOP and comments received on the NOP.

### 1.2.2 Draft EIR Public Review and Comment Period

Publication of this Draft EIR marks the beginning of a 45-day public review period. During this period, the Draft EIR will be available to the public and local, State, and federal agencies for review and comment. Notice of the availability and completion of this Draft EIR will be sent to every agency, person, and organization that commented on the NOP or expressed interest in this project, as well as the Office of Planning and Research. Written comments concerning the environmental review contained in this Draft EIR during the 45-day public review period should be sent to:

Reema Mahamood, Planner III
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San José, CA 95113
Phone: (408) 535-6872, Email: Reema.Mahamood@sanjoseca.gov

## 1.3 FINAL EIR/RESPONSES TO COMMENTS

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

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

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

### 1.3.1 Notice of Determination

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

# SECTION 2.0 PROJECT INFORMATION AND DESCRIPTION

## 2.1 PROJECT LOCATION

The 7.42-acre project site is located at 605 Blossom Hill Road (Assessor's Parcel Number: 464-22-032), between Canoas Creek and the State Route (SR) 85 offramp, in south San José. The project site is currently developed with a 542-space surface parking lot for the adjacent VTA light rail station, VTA bus stop, landscaping and ornamental trees. The only structures on the project site are two covered seating structures along the northeast property line, near the entrance to the light rail station. Vehicular access to the site is provided via one two-directional driveway located near the middle of the site along Blossom Hill Road. The regional location, and vicinity maps, and an aerial photograph of the project site and surrounding area are included in Figure 2.2-1, Figure 2.2-2, and Figure 2.2-3, respectively.

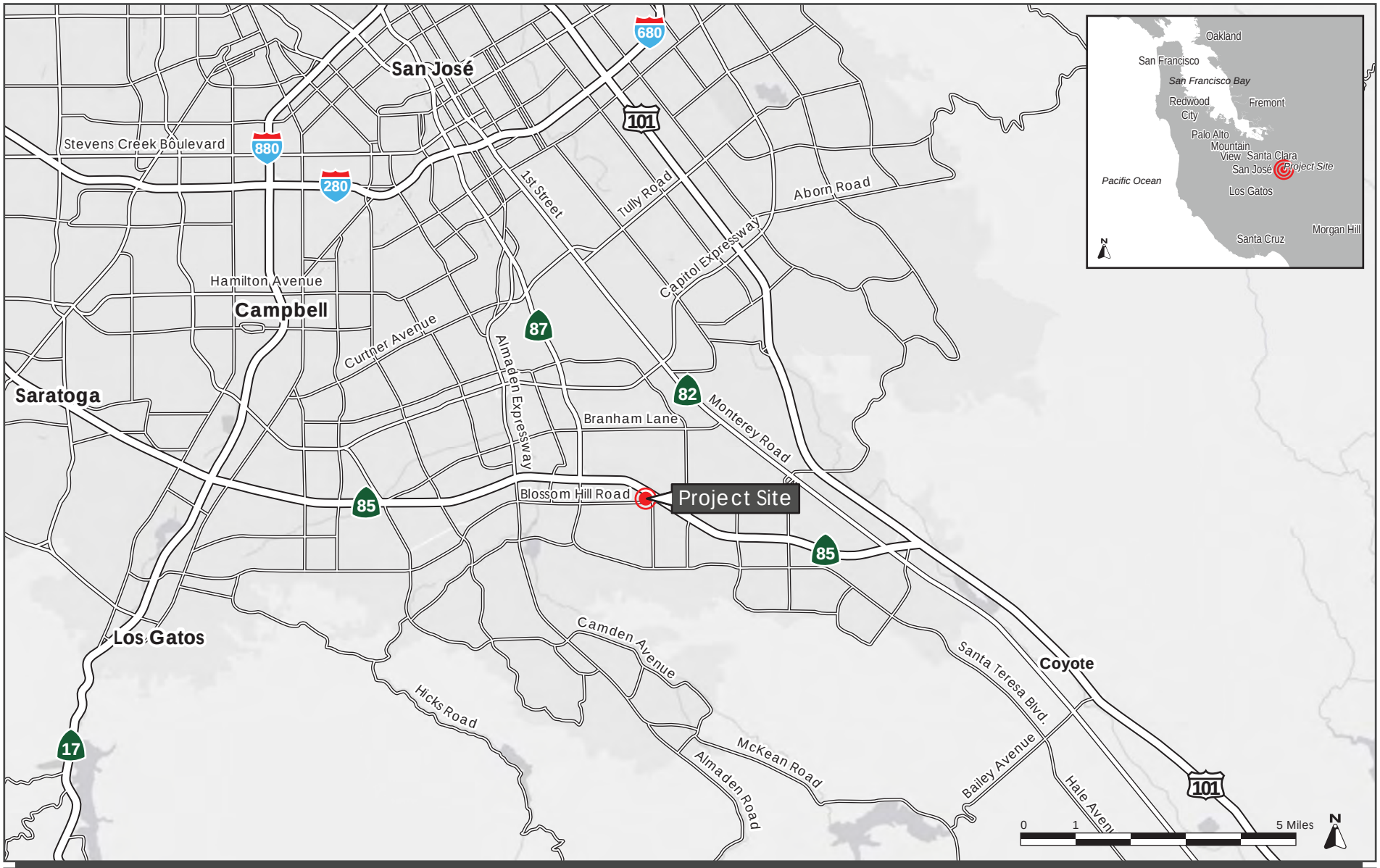
## 2.2 PROPOSED PROJECT

The proposed project would demolish approximately half of the existing surface parking and associated landscaping to construct a new six-story, market-rate, mixed-use building (Building A) and a new five-story affordable residential building (Building B) containing a total of 328 residential units and 13,590 square feet commercial space. The existing bus stop would be relocated to Blossom Hill Road. No changes are proposed to the light rail station. The proposed project would retain and reconfigure 212 parking spaces in the northern half of the project site to allow for better circulation and redevelopment of the existing transit plaza adjacent to the Blossom Hill light rail station entrance to support future temporary events and amenities such as farmers markets and food trucks.

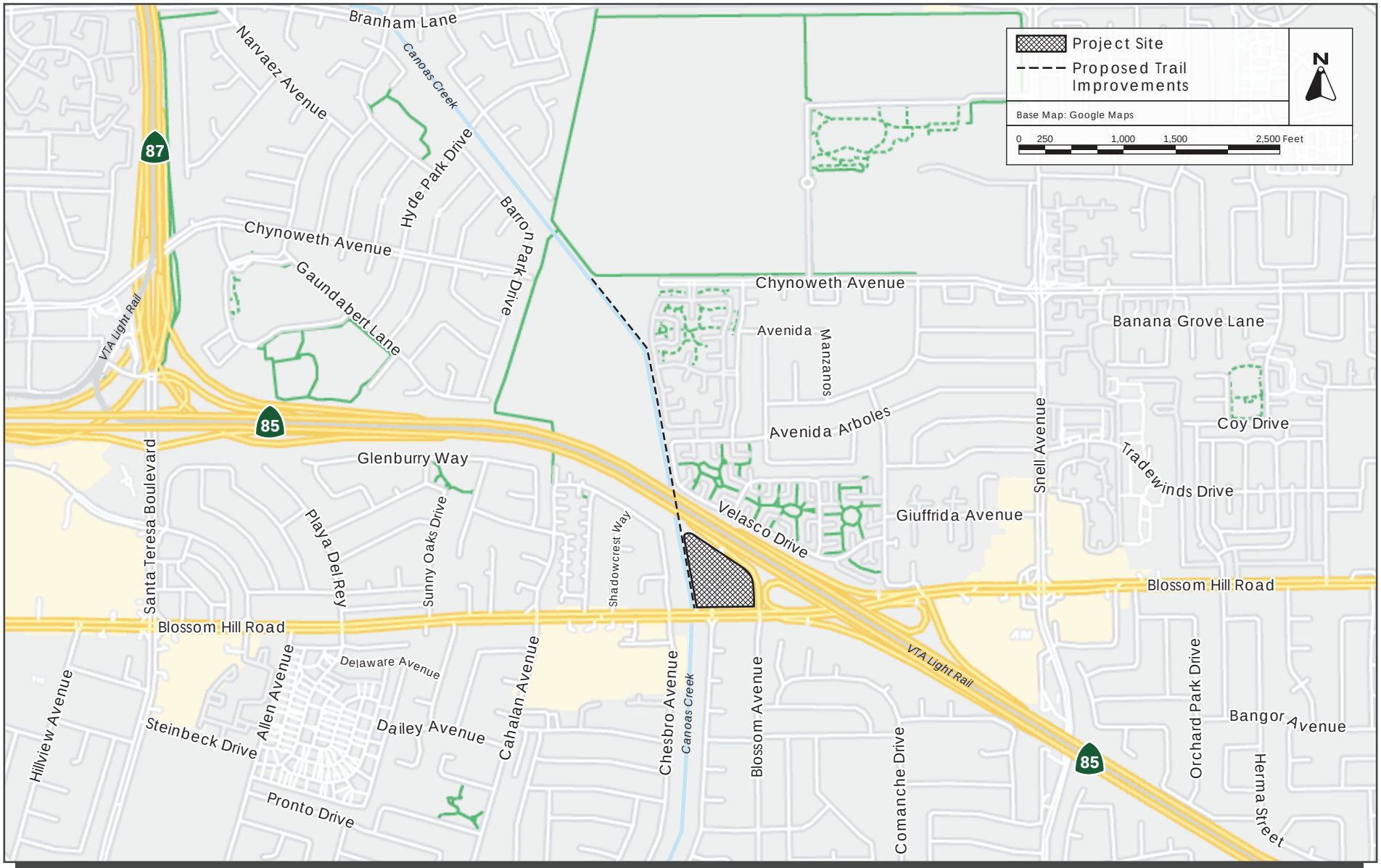
Building A would have a density of 80.7 dwelling units per acre and would include 13,590 square feet of commercial space and 239 dwelling units. Building A would be six stories tall with a maximum height of 79.6 feet (including the mechanical screen) and would include a combination of neighborhood and resident amenity space (including an 809-square-foot community room for public use), and an entrance lobby for building residents.

Building B have a density of 90.8 dwelling units per acre. Building B would be five stories tall with a maximum height of 64 feet (including the mechanical screen) and would have 89 affordable dwelling units. Amenity space for Building B would total 5,376 square feet and would be provided on the first two floors.

The project is proposing affordable units to be eligible to be considered under the State Density Bonus Law (Government Code Sections 65915 – 65918). Although the project is not proposing to use the Density Bonus, any project that is deemed eligible for Density Bonus under State Law is also eligible to request incentives. This project includes two incentive requests, including a reduction in the required commercial square footage to 13,590 square feet, the number of private balconies, and to allow some balconies to be smaller than the required 60 square-foot minimum per unit. Specifically, the project is requesting an incentive to allow Building A to have 154 balconies for a total of approximately 11,693 square feet of private open space and allow Building B to have no private balconies, where 239.60 square feet of open space would typically be required in Building A and 89.60 square feet of open space would be typically required in Building B. Additionally, the project is requesting the use of alternative materials such as stucco and cast trim pieces.




REGIONAL MAP | FIGURE 2.2-1




VICINITY MAP | FIGURE 2.2-2


AERIAL PHOTOGRAPH AND SURROUNDING LAND USES | FIGURE 2.2-3

A site plan is shown in Figure 2.2-4, conceptual elevations of Building A and Building B are shown in Figure 2.2-5 through Figure 2.2-9, respectively.

### 2.2.1 Site Access and Parking

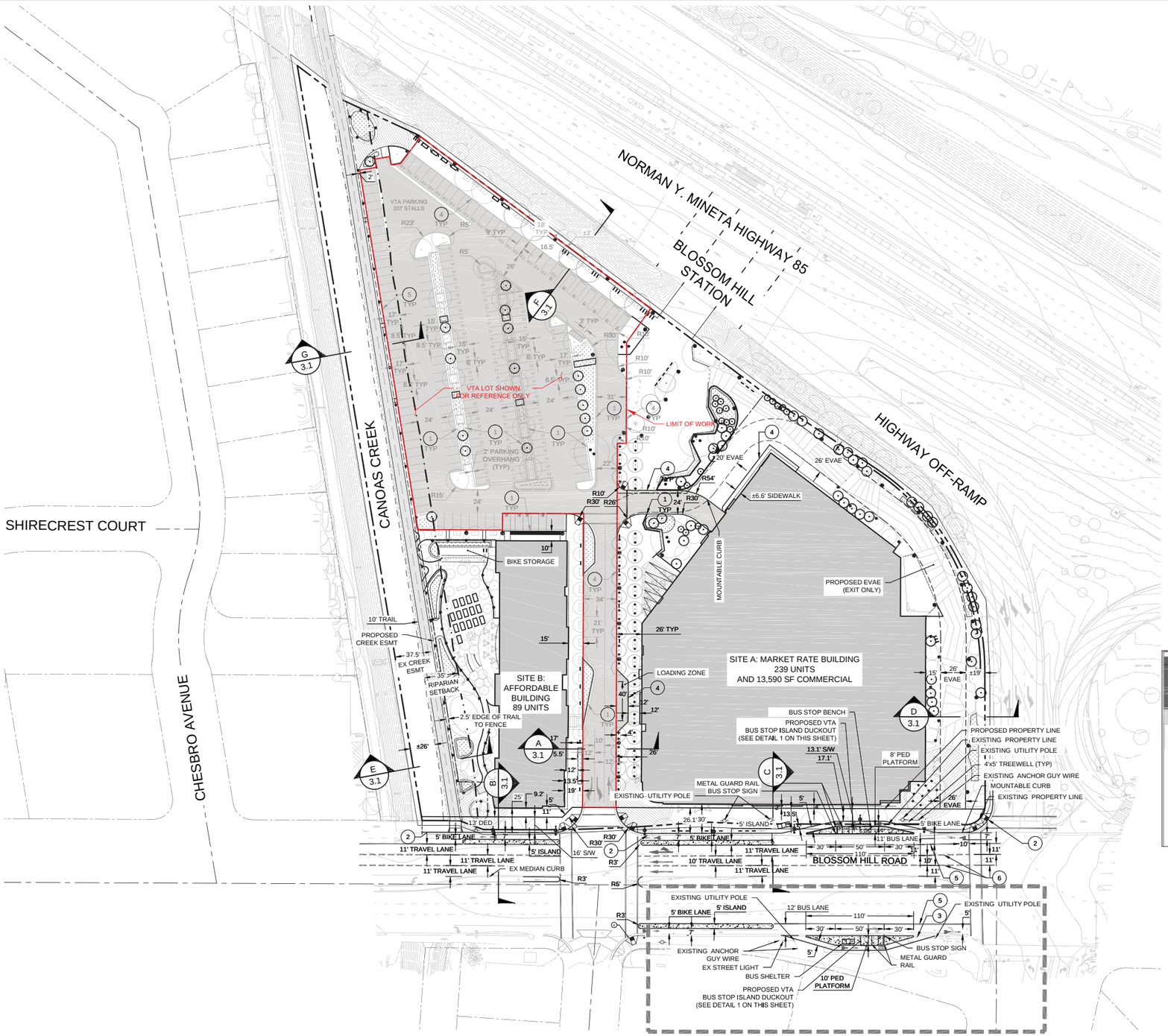
Vehicular access to the project site is currently provided via a two-directional signalized driveway off Blossom Hill Road. One two-lane private road provides access to the light rail station, bus stop and the parking lot. The proposed project would retain and reconfigure the existing driveway, access road, and 212 of the approximately 542 existing parking spaces for VTA use. Two loading/unloading areas would be provided on the private road, one on each side, adjacent to Buildings A and B. The proposed project would also construct a new approximately 10- to 12-foot-wide bicycle/pedestrian path along Canoas Creek. Signage, landscape buffers, and/or fences would divide the VTA parking from dedicated parking for the proposed residential and mixed-use buildings. Resident parking would be provided in the form of a podium parking garage in Building A accessible through the reconfigured drive aisle north of Building A and a small surface parking lot to the north of Building B. The parking garage for Building A would be wrapped with the building façade. Building A would provide up to 323 vehicle parking spaces within the first and second floors of the building which would serve the proposed commercial and residential uses in both Buildings A and B. Additionally, four ADA-compliant vehicle parking spaces would be provided in the surface parking lot adjacent to Building B for use by Building B residents. Two vehicle loading/unloading areas would be provided (one for each of the proposed buildings) on the project driveway.

Bicycle parking for residents in Building A would be provided in the parking garage.

### 2.2.2 Green Building Features

The proposed project would be built to the California Green Building Standards Code (CALGreen) which includes design provisions intended to minimize wasteful energy consumption. The proposed project would be designed to achieve the equivalent of Leadership in Energy and Environmental Design (LEED) Silver certification consistent with San José Council Policy 6-32 and would include the following green building measures and design features:

- Exceed the State Title 24 California Energy Code requirements (extent to be determined by Title 24 consultant)
- High-performance building envelopes, including 2×6 exterior walls
- Unit sub-metering of utility consumption
- Photovoltaic Solar array hookups on Building A and Building B rooftops to meet 2019 Zero Net Energy (ZNE) guidelines
- Electric vehicle charging available in unit garages and in the VTA parking lot
- Salvage or recycle at least 75 percent of construction waste per CALGreen
- Use of recycled and/or regional building materials
- Water efficient landscaping and irrigation design
- On-site storm water management bioretention landscape planters




## CONSTRUCTION NOTES:

1. CURB AND GUTTER
2. CSJ CURB AND GUTTER
3. CSJ VALLEY GUTTER
4. 6" VERTICAL CURB
5. RIGHT EDGE LINE
6. LANE LINE

## LEGEND

- PROJECT BOUNDARY
- PROPERTY LINE
- RIGHT-OF-WAY
- EASEMENT
- TOP OF CREEK BANK
- RIPARIAN SETBACK
- BIORETENTION
- TREE

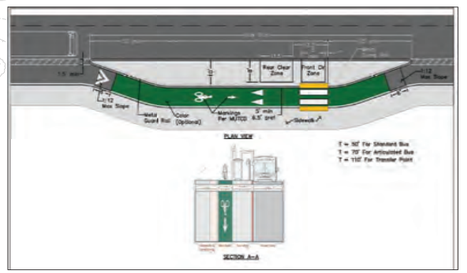
## ABBREVIATIONS

| | |
|---|---|
| DED | DEDICATION |
| ESMT | EASEMENT |
| EVAE | EMERGENCY VEHICLE ACCESS EASEMENT |
| RXX' | RADIUS XX FT |
| S/W | SIDEWALK |
| TYP | TYPICAL |

## NOTES

1. AS OUTLINED IN RED, THE ±2.03 AC VTA LOT IS NOT INCLUDED IN THE SPECIAL USE PERMIT APPLICATION AS IT IS UNDER A SEPERATE PERMITTING AUTHORITY, BUT IS SHOWN HERE TO GIVE CONTEXT FOR THE COMPLETE SITE.

DETAIL 1



NOT A PART OF PERMIT
(SHOWN FOR COORDINATION ONLY)

Source: HMH Engineers, December 9, 2021.

SITE PLAN

FIGURE 2.2-4


WEST ELEVATION


NORTH ELEVATION

Source: HMH Engineers, June 16, 2021.

BUILDING A CONCEPTUAL NORTH AND WEST ELEVATIONS | FIGURE 2.2-5


SOUTHEAST ELEVATION


SOUTHWEST ELEVATION

Source: HMH Engineers, June 16, 2021.

BUILDING A CONCEPTUAL SOUTHEAST AND SOUTHWEST ELEVATIONS | FIGURE 2.2-6


NORTHEAST ELEVATION

EAST ELEVATION

Source: HMH Engineers, June 16, 2021.

BUILDING A CONCEPTUAL NORTHEAST AND EAST ELEVATIONS

FIGURE 2.2-7


EAST ELEVATION


NORTH ELEVATION

Source: HMH Engineers, June 17, 2021.

BUILDING B CONCEPTUAL EAST AND NORTH ELEVATIONS | FIGURE 2.2-8


WEST ELEVATION


SOUTH ELEVATION

Source: HMH Engineers, June 17, 2021.

BUILDING B CONCEPTUAL WEST AND SOUTH ELEVATIONS | FIGURE 2.2-9

### 2.2.3 Landscaping

Existing on-site landscaping consists of ornamental trees, shrubs, and turf along the perimeter of the site, throughout the parking lot, and in the transit plaza area. A total of 138 trees are present on the project site. The proposed project would remove 102 existing landscaping trees and 12 street trees and replace them with 105 new trees and ornamental shrubs along perimeter of the site and new buildings. Landscaping along Canoas Creek adjacent to Building B and the new pedestrian/bicycle trail would be planted according to the Santa Clara Valley Water District's (Valley Water) approved species list. Figure 2.2-10 shows the proposed landscaping plan.

### 2.2.4 Trail Improvements

The proposed project would convert an existing gravel access road along Canoas Creek to an approximately 0.6-mile, 10- to 12-foot-wide paved asphalt concrete pedestrian/bicycle trail between Blossom Hill Road and Martial Cottle Park. The trail would be located on the east side of Canoas Creek between 5 and 20 feet from the top of bank and have a longitudinal slope of less than five percent and a cross-slope less than two percent. The trail would follow the natural slope of the land. Low points and sharp turns would be avoided. Additionally, two trailhead plazas would be constructed on-site to mark the entrance of the trail at Blossom Hill Road and another in the northwest corner of the project site marking the direction to the Blossom Hill light rail station. The on-site trail improvements would cover approximately 28,000 square feet. A conceptual site plan of the proposed off-site trail improvements is shown in Figure 2.2-11.

In addition to the proposed trail along Canoas Creek, the project would include construction of approximately 0.6-mile of off-site trail improvements along Canoas Creek from the project site to Martial Cottle Park. The off-site trail improvements would pass through land owned by VTA, Caltrans, Valley Water, and the County of Santa Clara. The proposed trail segment south of SR 85 would be coordinated with VTA, the segment that runs under SR 85 would be coordinated with Caltrans, and the segment north of SR 85 would be coordinated with the County of Santa Clara. In addition, the proposed trail would require collaboration with the City of San José Parks, Recreation and Neighborhood Services Department and Valley Water as the improvements would be maintained by the City and located within a Valley Water easement.

Construction of the trail improvement extension would include demolition of a portion of the freestanding wall and fence under SR 85, side wall and staircase at the Blossom Hill light rail station and construction of a new staircase and landing separate from the trail. No construction work is proposed within Canoas Creek, however, due to the location of the trail improvements on land owned by other agencies, permitting and approval for this project component would be required from VTA, Caltrans, Valley Water, and the County of Santa Clara.

Lighting would be provided along the trail adjacent to and underneath SR 85 for user safety. Relocation of portions of the VTA light rail station, including all or a part of the stairs leading to the north side of the VTA station; removal of the fencing and demolition of concrete structures under the SR 85 overpass; and the creation of a 10- to 12-foot-wide bicycle/pedestrian path along Canoas Creek are components of the proposed project. Signage, landscaping, and/or fencing would buffer the trail from the adjacent residential neighborhoods to the west and east of Canoas Creek. The trail would cross an existing gravel path


## LEGEND

### Open Space:

A Transit Plaza **L103**

B Public Amenity Trail **L104**

C Canoes Creek Landscape Plan **L105**

D Trail Head Plaza Plan **L106**

E VTA Parking Lot

F Blossom Hill Road Streetscape*

G Access Road

H Outdoor Shared Neighborhood Amenity Space

I Canoas Creek Trail

### Key Landscape Features:

J Tree Paseo

K Retail Plaza

L Fenced Dog Walk (private)

M Amenity Trailhead

N Canoas Creek Trailhead

### Transit-Oriented Facilities:

O Relocated Bus Stops

P Drop-off/Pick-up

Q Access to VTA Station

R Ramp for Bike and Service Access for Creek

S Potential Future Access to VTA Station and Trail Connection

T Micromobility Zone with Commuter Bike Lockers

U Drop-off/Pick-up and Loading Space

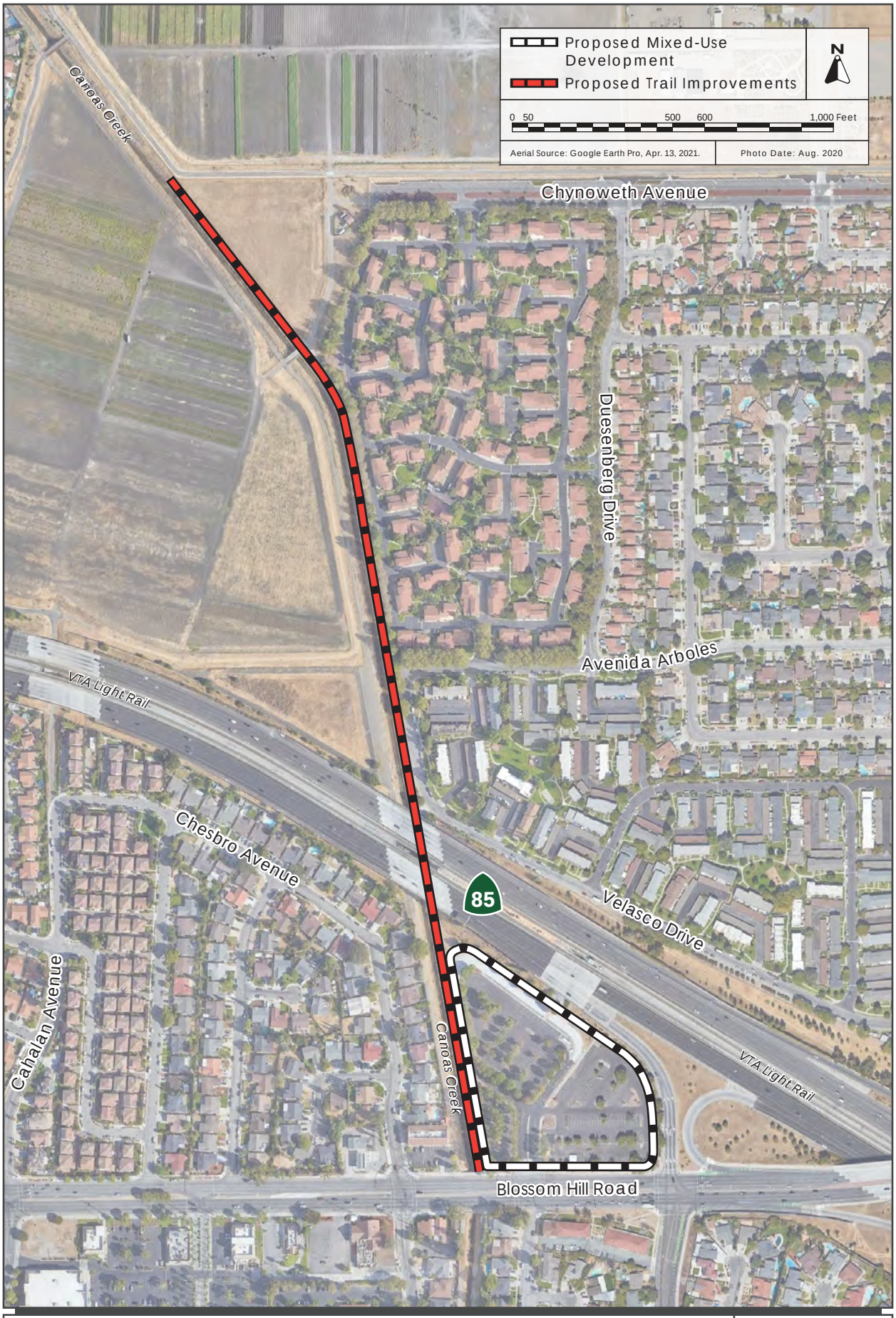
**Street trees shown in the public right-of-way are for information only. The Planning Permit does not authorize the installation or removal of trees in the public right of way. Actual street tree location will be determined by Public Works at the implementation stage on the Public Improvement plan. The installation or removal of the street trees requires a permit from the Department of Transportation. The City Arborist will specify the species.*

0' 50' 100' 200'

Source: HMH Engineers, June 20, 2021.

CONCEPTUAL LANDSCAPING PLAN

FIGURE 2.2-10




CONCEPTUAL SITE PLAN OF TRAIL IMPROVEMENTS | FIGURE 2.2-11

used by farmers at Martial Cottle Park to transport farm equipment between agricultural fields. Signage would be provided along the proposed trail alignment before and after this intersection, warning trail users of potential farm equipment crossing. Bridges and platforms over Canoas Creek to link the on-site trail improvements to the off-site trail improvements may be included as a part of the proposed off-site trail extension. Additional interpretive signage would also be installed along the trail acknowledging the Native Americans who are culturally affiliated with the land. Although not anticipated, any work that would occur around Canoas Creek below the ordinary high-water mark would require permitting and approval from regulatory agencies including but not limited to United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife (CDFW).

### 2.2.5 Pedestrian and Bicycle Improvements

The proposed project would include improvements to pedestrian and bicycle facilities in the project vicinity including the following:

- Installation of mountable driveways[1] for bikes at trail entrance on Blossom Hill Road
- Widening of existing sidewalk along Blossom Hill Road to 15 feet with tree wells
- Improved pedestrian lighting along Canoas Creek
- Widening of the sidewalk along Blossom Hill Road
- Additional landscaping along Blossom Hill Road and Canoas Creek trail
- Installation of new crosswalks on Blossom Hill Road
- Installation of new sidewalks, and improvements to existing sidewalks on Blossom Hill Road at the project frontage
- Wayfinding Signage on Blossom Hill Road and Velasco Drive

### 2.2.6 Envision San José 2040 General Plan and Zoning Designation

The project site is designated *Neighborhood/ Community Commercial* under the Envision San José 2040 General Plan and is located within the Blossom Hill/Cahalan Avenue Urban Village. As of the date of preparation of this Draft EIR, an Urban Village Plan for the Blossom Hill/Cahalan Avenue Urban Village area has not been prepared. The site is zoned *Agriculture (A)*. Residential uses are not allowed within the *Agriculture (A)* Zoning District. However, under Assembly Bill (AB) 3194 (Housing Accountability Act), if the existing General Plan land use designation allows for residential uses and the project provides housing for very low, low-, or moderate-income households, rezoning is not required. Because the project would provide a qualifying amount of affordable housing, is located within an Urban Village boundary and residential uses are allowed under General Plan Signature Project Policy IP-5.10, a rezoning of the site is not required.

### 2.2.7 Project Construction

Construction of the proposed project would occur over a period of approximately 33 months and would be completed in three phases: 1) resurfacing and restriping of the northern parking lot, 2)

[1] Mountable Driveways are driveways that are designed to slope downward toward a street to allow vehicles or bicycles to drive over them to access a site.

construction of Buildings A and B, 3) construction of the trail improvements. Resurfacing and replacement of the northern parking lot would be completed in approximately four months. Upon completion of this phase, construction of Buildings A and B would begin, and portions of the northern parking lot would be used for construction staging (refer to Figure 2.2-12 for location of staging areas).

Construction activities would occur between 7:00AM and 7:00PM Monday through Saturday.[2]

During project construction, the existing surface parking lots, trees and landscaping would be removed on the southern approximately one-half of the project site. The existing driveway and access road would be retained during project construction to provide access to the light rail station, bus stop (prior to relocation of the bus stop to Blossom Hill) and remaining parking lot on the northern approximately one-half of the project site. The maximum depth of excavation required to construct the proposed project is 17 feet below ground surface (bgs).

## 2.3 PROJECT OBJECTIVES

The project objectives are:

a) To create a high-density, transit-oriented, mixed-use development adjacent to the Blossom Hill Station
b) To provide affordable housing units in proximity to multi-modes of transit to Extremely Low, Very-Low, and Low-Income households
c) To create vibrant community assets including a new transit plaza and trailhead plaza adjacent to the Blossom Hill Station
d) To transform an underutilized surface parking lot through the development of a mixed-use development with up to 13,590 square feet of neighborhood serving retail.
e) To improve access along the Canoas Creek Trail and to create a new approximately 0.6-mile trail connection to Martial Cottle Park

## 2.4 USES OF THE EIR

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

- Special Use Permit[3]
- Tentative Map
- Caltrans Design Engineering Evaluation Report (DEER) Permit
- Valley Water Trail Permit
- Public Works Clearances including Grading Permits
- Tree Removal Permits
- Demolition Permits

[2] The project includes a request for construction operations to occur outside of the City's allowed construction hours, this request is included in the Special Use Permit application for the project.
[3] As noted in Section 2.2.7 Project Construction, the project is requesting extended construction hours as part of the Special Use Permit.


Source: HMH Engineers, November 2, 2020.

CONCEPTUAL CONSTRUCTION STAGING PLAN

FIGURE 2.2-12

# SECTION 3.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATIONS

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

| | | | |
|---|---|---|---|
| 3.1 | Aesthetics | 3.11 | Land Use and Planning |
| 3.2 | Agriculture and Forestry Resources | 3.12 | Mineral Resources |
| 3.3 | Air Quality | 3.13 | Noise |
| 3.4 | Biological Resources | 3.14 | Population and Housing |
| 3.5 | Cultural Resources | 3.15 | Public Services |
| 3.6 | Energy | 3.16 | Recreation |
| 3.7 | Geology and Soils | 3.17 | Transportation |
| 3.8 | Greenhouse Gas Emissions | 3.18 | Tribal Cultural Resources |
| 3.9 | Hazards and Hazardous Materials | 3.19 | Utilities and Service Systems |
| 3.10 | Hydrology and Water Quality | 3.20 | Wildfire |

The discussion for each environmental subject includes the following subsections:

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

**Impact Discussion** – This subsection includes the recommended checklist questions from Appendix G of the CEQA Guidelines to assess impacts.

- **Project Impacts** – This subsection discusses the project's impact on the environmental subject as related to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370).
- **Cumulative Impacts** – This subsection discusses the project's cumulative impact on the environmental subject. Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant effects taking place over a period of time. CEQA Guideline Section 15130 states that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project addressed in this Draft EIR.

  The CEQA Guidelines advise that a discussion of cumulative impacts should reflect both their severity and the likelihood of their occurrence (CEQA Guidelines Section 15130(b)). To accomplish these two objectives, the analysis should include either a list of past, present, and probable future projects or a summary of projections from an adopted general plan or similar

document (CEQA Guidelines Section 15130(b)(1)). This Draft EIR uses the list of projects approach.

The analysis must determine whether the project's contribution to any cumulatively significant impact is cumulatively considerable, as defined by CEQA Guideline Section 15065(a)(3). The cumulative impacts discussion for each environmental issue accordingly addresses the following issues: 1) would the effects of all of past, present, and probable future (pending) development result in a significant cumulative impact on the resource in question; and, if that cumulative impact is likely to be significant, 2) would the contribution from the proposed project to that significant cumulative impact be cumulatively considerable?

Table 3.0-1 identifies the approved (but not yet constructed or occupied) and pending projects in the project vicinity that are evaluated in the cumulative analysis.

**Table 3.0-1: Cumulative Projects List**

| Name and Location | Description | Distance to Proposed Project | Status |
|---|---|---|---|
| Blossom Hill Affordable Apartments, 397 Blossom Hill Road | 147 affordable dwelling units and 16,000 square feet of commercial space | 0.6-mile east | Approved |

For each resource area, cumulative impacts may occur over different geographic areas. For example, the project effects on air quality would combine with the effects of projects in the entire air basin, whereas noise impacts would primarily be localized to the surrounding area. The geographic area that could be affected by the proposed project varies depending upon the type of environmental issue being considered. Section 15130(b)(3) of the CEQA Guidelines states that lead agencies should define the geographic scope of the area affected by the cumulative effect. Table 3.0-2 provides a summary of the different geographic areas used to evaluate cumulative impacts.

**Table 3.0-2: Geographic Considerations in Cumulative Analysis**

| Resource Area | Geographic Area |
|---|---|
| Aesthetics | Project site and adjacent parcels |
| Agriculture and Forestry Resources | City |
| Air Quality | San Francisco Bay Area Air Basin |
| Biological Resources | Project site and adjacent parcels |
| Cultural Resources | Project site and adjacent parcels |
| Energy | Energy provider's territory |
| Geology and Soils | Project site and adjacent parcels |

| Table 3.0-2: Geographic Considerations in Cumulative Analysis | |
|---|---|
| **Resource Area** | **Geographic Area** |
| GHGs | SF Bay Area Air Basin |
| Hazards and Hazardous Materials | Project site and adjacent parcels |
| Hydrology and Water Quality | Guadalupe River watershed |
| Land Use and Planning/Population and Housing | Citywide |
| Minerals | Identified mineral recovery or resource area |
| Noise and Vibration | Project site and adjacent parcels |
| Public Services and Recreation | Project site and vicinity |
| Transportation/Traffic | Project site and vicinity |
| Tribal Cultural Resources | Project site and adjacent parcels |
| Utilities and Service Systems | Citywide |
| Wildfire | Within or adjacent to the wildfire hazard zone |

## 3.1 AESTHETICS

Public comments received during the NOP scoping process pertained to the height of the proposed buildings in relation to surrounding neighborhoods. The project in relation to surrounding neighborhoods is addressed in Section 3.1.2 below.

### 3.1.1 Environmental Setting

#### 3.1.1.1 *Regulatory Framework*

**State**

Senate Bill 743

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use alternatives to level of service (LOS) for evaluating transportation impacts, specifically vehicle miles traveled (VMT). SB 743 also included changes to CEQA that apply to transit-oriented developments, as related to aesthetics and parking impacts. Under SB 743, a project's aesthetic impacts will no longer be considered significant impacts on the environment if:

- The project is a residential, mixed-use residential, or employment center project, and
- The project is located on an infill site within a transit priority area.[4]

SB 743 also clarifies that local governments retain their ability to regulate a project's aesthetics impacts outside of the CEQA process.

Streets and Highway Code Sections 260 through 263

The California Scenic Highway Program (Streets and Highway Code, Sections 260 through 263) is managed by the California Department of Transportation (Caltrans). The program is intended to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. There are no State-designated scenic highways in San José. Interstate 280 from the San Mateo County line to SR 17, which includes segments in San José, is an eligible, but not officially designated, State Scenic Highway.[5]

[4] An "infill site" is defined as "a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses."
A "transit priority area" is defined as "an area within 0.5 mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations."
A "major transit stop" means "a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Source: Office of Planning and Research. "Changes to CEQA for Transit Oriented Development – FAQ." October 14, 2014. Accessed September 16, 2020. http://www.opr.ca.gov/ceqa/updates/sb-743/transit-oriented.html.

[5] California Department of Transportation. "Scenic Highways." Accessed September 16, 2020. http://www.dot.ca.gov/design/lap/livability/scenic-highways/index.html.

In Santa Clara County, the one State-designated scenic highway is SR 9 from the Santa Cruz County line to the Los Gatos City Limit. Eligible State Scenic Highways (not officially designated) include: SR 17 from the Santa Cruz County line to SR 9, SR 35 from Santa Cruz County line to SR 9, Interstate 280 from the San Mateo County line to SR 17, and the entire length of SR 152 within the County.

### 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 visual character and scenic resources and would be applicable to the proposed project:

**Envision San José 2040 General Plan Relevant Aesthetics Policies**

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

In addition to applicable General Plan policies, the project would be required to comply with the following City policies and guidelines, as applicable:

- San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/00)
- San José Residential Design Guidelines
- San José Commercial Design Guidelines
- San José Riparian Corridor Protection Policy

#### 3.1.1.2 *Existing Conditions*

The project site is flat and fronts Blossom Hill Road. The site is currently developed with a bus stop, light rail station, surface parking lot and landscaping trees and shrubs. There are 138 on-site trees, primarily located along the project perimeter, adjacent to the transit station and bus stop as well as in landscaped islands throughout the parking lot, as shown in Photos 1 and 2.

**Surrounding Area**

The project site is in an area developed with predominately modern and recent commercial and residential buildings, as shown in Photos 3 through 6 below. The project site is immediately bordered by SR 85 and the Blossom Hill Station to the north/ northeast, Blossom Hill Road to the south, and Canoas Creek to the west. Surrounding developments beyond these roadways and creek consist of primarily residential neighborhoods developed with one- and two-story residential buildings and commercial districts along Blossom Hill Road developed with one- and two-story commercial buildings.

Located north and east of the project site is SR 85, a six- to seven-lane divided freeway. The VTA light rail runs down the center of SR 85 with access to the Blossom Station provided at the project site.

Located south of the project site is Blossom Hill Road, a six-lane divided Main Street. Street trees line this roadway on the north and south sides; however, no landscaping is present within the center median.

Located to the west of the project site is Canoas Creek, a channelized tributary of the Guadalupe River which runs in a north-south direction in the project vicinity. Vegetation in and adjacent to Canoas creek includes a mixture of grasses and landscaping trees and shrubs. No riparian vegetation is present along the segment of Canoas Creek adjacent to the project site.

To the west of the project site, across Canoas Creek, the one-story multi-tenant commercial building has a glass and stone façade with a tiled roof while the single-family residences have gabled[6] roofs and a variety of facades including stucco, wood, and brick. The multi-tenant commercial building is set back from Blossom Hill Road with a linear parking lot and sidewalk separating the building from the street. The adjacent residences are similarly set back from the street with landscaping and driveways separating the buildings from the street. To the south of the project site, across Blossom Hill Road, the one- and two-story medical office buildings are clad in stucco and have gabled tile

[6] Describes a roof constructed with a single slope on each side of the ridge supported at the edge by a gable or vertical triangular portion of an end wall.

roofs and exposed wood rafters. The buildings are set back from the street with a sidewalk and landscaping separating the buildings from the street. Agricultural fields planted with row crops are located northwest of the project site across SR 85, within Martial Cottle Park.

### Scenic Views and Resources

The City of San José has many scenic resources including the hills and mountains that frame the valley floor, the baylands, and the urban skyline itself. Hillsides visible from the city include the foothills of the Diablo Range and Silver Creek Hills to the east, the Santa Cruz Mountains to the west, and Santa Teresa Hills to the south. The project site is relatively flat and is located in an urban area. There are no baylands visible from the project site. Views of the Santa Cruz Mountains and Santa Teresa Hills are afforded at and through the project site from SR 85. The project area is developed, and no natural scenic resources such as rock outcroppings are present on the site or in the project area. There are no existing landmarks that are visible from the project site or its vicinity, due to existing urban development in the surrounding area.

### Scenic Corridors

The project site is not located along a State-designated scenic highway. The nearest State-designated scenic highway is SR 9, approximately nine miles southwest of the site (approximately 250 feet west of Montgomery Street). The nearest eligible State scenic highways are Interstate 280 (at the Interstate 88 interchange), approximately eight miles northwest of the site and SR 17, approximately eight miles southwest of the project site. The designated scenic and eligible State scenic highways are not visible from the project site.[7]

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. The nearest Urban Throughway to the project site is SR 85, adjacent to the north and northwest of the project site. The nearest Gateway to the project site is Blossom Hill Road, from Cahalan Avenue to Snell Avenue, immediately adjacent to the project site to the south. Therefore, the project site would be visible from both the nearest Urban Throughway (SR 85) and the nearest Gateway (Blossom Hill Road).

### Transit Priority Area

The project site is located within a transit priority area, as defined by SB 743. The VTA light rail station (Blossom Hill Station) is located adjacent to the project site along the northeast property line and access to the Blossom Hill Station is afforded primarily from the project site. VTA lines 901 and 911 operate at this station. These light rail lines qualify as a major transit stop because the lines have headways of 15 minutes or less during the AM and PM peak commute periods.

[7] California Department of Transportation. California Scenic Highways. Accessed September 16, 2020. https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways


**Photo 1:** View looking west toward light rail station entrance.

**Photo 2:** View looking north from transit plaza.

PHOTOS 1 & 2


**Photo 3:** One-story commercial development to the west of the project site.


**Photo 4:** Two-story commercial development to the south of the project site.

**Photo 5:** One-story residential development to the west of the project site.

**Photo 6:** One-story residential development to the west of the project site.

### 3.1.2 Impact Discussion

For the purpose of determining the significance of the project's impact on aesthetics, except as provided in Public Resources Code Section 21099, would the project:

a) Have a substantial adverse effect on a scenic vista?
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?[8] If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

#### 3.1.2.1 *Project Impacts*

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

The proposed project would replace an existing parking lot with one six-story mixed-use building, one five-story residential building, and a 0.6-mile bicycle and pedestrian trail on an infill site located within a transit priority area. Pursuant to SB 743 (Public Resources Code section 21099[d][1]) "aesthetic and parking impacts of a residential, mixed-use residential, or employment center on an infill site within a transit priority area shall not be considered significant impacts on the environment;" therefore, the aesthetics impacts of the project would not be significant. Nonetheless, the following discussion is included for informational purposes.

The project site (including the area of the proposed mixed-use development and trail improvements) is not located along a State scenic highway or rural scenic corridor; however, it is located along both a City Gateway and an Urban Throughway. As discussed in Section 3.11, Land Use and Planning, the proposed project would be considered a Signature Project under the City's General Plan and would be reviewed by City staff to ensure the compatibility with general plan policies, including those related to preserving scenic vistas along designated Gateways and Urban Throughways.

**(Less than Significant Impact)**

**b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?**

The project site (including the area of the proposed mixed-use development and trail improvements) is not located along a State scenic highway and no scenic resources such as heritage trees or rock

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

outcroppings are located on the site. None of the buildings or structures adjacent to the site have been designated as historic resources by the City of San José.[9] Thus, there would be no impact.

**(No Impact)**

**c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?**

The project site (including the area of the proposed mixed-use development and trail improvements) is located within a transit priority area and would not conflict with applicable zoning. Pursuant to SB 743 (Public Resources Code section 21099[d][1]) "aesthetic and parking impacts of a residential, mixed-use residential, or employment center on an infill site within a transit priority area shall not be considered significant impacts on the environment;" therefore, the aesthetics impacts of the project would not be significant. Nonetheless, the following discussion is included for informational purposes.

The project site (including the area of the proposed mixed-use development and trail improvements) is located in an urbanized area of San José with buildings in the project area ranging from one- to two-stories. The project would replace an existing parking lot with one six-story mixed-use building, one five-story residential building, and a 0.6-mile bicycle and pedestrian trail. As noted in Section 2.2.6, Envision San José General Plan and Zoning District above, the project site (specifically the area of the proposed mixed-use development) has a General Plan land use designation of *Neighborhood/Community Commercial*, is located within the Blossom Hill/Cahalan Urban Village area and is zoned *A Agriculture*. The *A* Zoning District for the site is inconsistent with the General Plan land use designation and is considered a legacy zoning district. As discussed in Section 3.11, Land Use and Planning, the proposed project would be considered a Signature Project under the City's General Plan, would not require a rezoning per Assembly Bill 3194 and would be reviewed by City staff to ensure the compatibility with General Plan policies, including those related to scenic quality.[10]

**(Less than Significant Impact)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is located in an urban area with residential and commercial developments and vehicular traffic. The project site (including the area of the proposed mixed-use development and trail improvements) is currently developed with a bus stop, entrance to a light rail station, surface parking lot, ornamental

[9] City of San José. Historic Resources Inventory. Accessed January 5, 2021. Available at: https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/historic-preservation/historic-resources-inventory

[10] California Assembly Bill 3194 (AB 3194) stipulates that a housing project located on a site that is consistent with the policies and objectives of the General Plan cannot be required to rezone, even if the existing zoning of the site is not consistent with the General Plan.

landscaping, and a gravel access road adjacent to Canoas Creek. The existing uses result in light and glare from pole-mounted parking lot lights, streetlights, and vehicle headlights as vehicles enter and exit the project site. The project applicant proposes to replace a portion of the existing parking lot with a six-story mixed-use building and a five-story residential building and develop a paved multi-use path parallel to Canoas Creek where a gravel access road currently exists, connecting the project site to Martial Cottle Park. The proposed residential and mixed-use buildings would include security lights and parking garage lights. The proposed trail improvements would include security lighting at regular intervals along the length of the path. The project would incrementally increase the amount of nighttime lighting on the project site including within the Canoas Creek riparian corridor. San José City Council Policy 4-3 (Outdoor Lighting on Private Developments) requires private developments to use energy-efficient outdoor lighting that is fully shielded and not directed skyward. All lighting installed by the project would be full-cutoff lighting, designed in conformance with City Council Policy 4-3. Design and construction of the project in conformance with General Plan design and lighting policies would not create a new source of nighttime light that would adversely affect views. Refer to Section 3.4 Biological Resources for a discussion of lighting impacts on the Canoas Creek riparian corridor.

Additionally, the design of the proposed project would be subject to the City's design review process and would be required to utilize exterior materials that do not result in daytime glare, consistent with General Plan policies and the City's Residential and Commercial Design Guidelines. For these reasons, the project would have a less than significant impact on light and glare.

**(Less than Significant Impact)**

#### 3.1.2.2 *Cumulative Impacts*

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

The geographic area for cumulative aesthetics impacts is limited to the project site and adjacent development in which the project site would be visible. The project site (including the area of the proposed mixed-use development and trail improvements) is not located along, or visible from, a State-designated scenic vista, and therefore would not contribute to a cumulatively significant impact to those resources. Although the project would alter the visual character of the project area, the project would comply with the City's Design Guidelines and the City Council Policy 4-3 to reduce light and glare. Future cumulative development within the geographic study area would occur in an urbanized environment and, like the project, be subject to the City's applicable zoning and other regulations regarding scenic quality, including the design criteria set forth in the City's General Plan and Citywide Design Standards and Guidelines. Accordingly, the project would not contribute to a cumulatively significant conflict with zoning and other regulations governing scenic quality. For these reasons, the project would not result in a cumulatively considerable contribution to a cumulative aesthetic impact.

**(Less than Significant Cumulative Impact)**

## 3.2 AGRICULTURE AND FORESTRY RESOURCES

### 3.2.1 Environmental Setting

#### 3.2.1.1 *Regulatory Framework*

**State**

Farmland Mapping and Monitoring Program

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status. The best quality land is called Prime Farmland. In CEQA analyses, the FMMP classifications and published county maps are used, in part, to identify whether agricultural resources that could be affected are present on-site or in the project area.[11]

California Land Conservation Act

The California Land Conservation Act (Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space uses. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under a Williamson Act contract is used to also identify sites that may contain agricultural resources or are zoned for agricultural uses.[12]

Fire and Resource Assessment Program

The California Department of Forestry and Fire Protection (CalFIRE) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[13] Programs such as CalFIRE's Fire and Resource Assessment Program and are used to identify whether forest land, timberland, or timberland production areas that could be affected are located on or adjacent to a project site.[14]

**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 agricultural resources and would be applicable to the proposed project:

[11] California Department of Conservation. "Farmland Mapping and Monitoring Program." Accessed September 16, 2020. http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx.
[12] California Department of Conservation. "Williamson Act." http://www.conservation.ca.gov/dlrp/lca.
[13] Forest Land is land that can support 10 percent native tree cover and allows for management of forest resources (California Public Resources Code Section 12220(g)); Timberland is land not owned by the federal government or designated as experimental forest land that is available for, and capable of, growing trees to produce lumber and other products, including Christmas trees (California Public Resources Code Section 4526); and Timberland Production is land used for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).
[14] California Department of Forestry and Fire Protection. "Fire and Resource Assessment Program." Accessed September 16, 2020. http://frap.fire.ca.gov/.

**Envision San José 2040 General Plan Relevant Agricultural Resources Policies**

| Policy | Description |
|---|---|
| LU-12.3 | Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of the Envision General Plan through the following means:<br>• Limit residential uses in agricultural areas to those which are incidental to agriculture.<br>• Restrict and discourage subdivision of agricultural lands. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, and transfers of development rights.<br>• Prohibit land uses within or adjacent to agricultural lands that would compromise the viability of these lands for agricultural uses.<br>• Strictly maintain the Urban Growth Boundary in accordance with other goals and policies in this Plan. |
| LU-12.4 | Preserve agricultural lands and prime soils in non-urban areas in order to retain the aquifer recharge capacity of these lands. |

#### 3.2.1.2 *Existing Conditions*

The Santa Clara County Important Farmland 2016 Map designates the project site as Urban and Built-Up land.[15] Urban Built-Up Land is defined as land 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. The site is currently developed with a bus stop, entrance to a light rail station, surface parking lot, landscaping, and gravel access path.. There is no forest land located on or adjacent to the project site and the site is not subject to a Williamson Act contract.

### 3.2.2 Impact Discussion

For the purpose of determining the significance of the project's impact on agriculture and forestry resources, would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

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

d) Result in a loss of forest land or conversion of forest land to non-forest use?

[15] California Department of Conservation. "Santa Clara County Important Farmland 2016 Map." Accessed September 16, 2020. ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2016/scl16.pdf

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

#### 3.2.2.1 *Project Impacts*

**a) Would the project convert Farmland, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

The project site (including the area of the proposed mixed-use development and trail improvements) is not used for agricultural purposes. The site is not designated by the California Department of Conservation, Farmland Mapping and Monitoring Program as farmland of any type. A portion of the proposed trail improvements, north of SR 85, is located adjacent to agricultural areas within Martial Cottle Park. The proposed project would not result in impacts to agricultural resources.

**(No Impact)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is zoned Agriculture (A). However, as noted throughout this report, the project site is currently developed with a bus stop, light rail station entrance, surface parking lot, landscaping, and gravel access path. No portion of the site is currently used for agricultural purposes. The project site is not subject to a Williamson Act contract. Consistent with AB 3194, the project would not require a rezoning and would, therefore, not conflict with existing agricultural zoning or a Williamson Act contract and impacts would be less than significant.

**(Less than Significant Impact)**

**c) Would the project conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?**

The project site (including the area of the proposed mixed-use development and trail improvements) and surrounding area are developed and are not zoned for forest land or timberland. The project would not conflict with existing zoning for forest land, timberland, or timber production, thus there would be no impact.

**(No Impact)**

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

Neither the project site (including the area of the proposed mixed-use development and trail improvements), nor any of the properties adjacent to the project site or in the vicinity, are used for

forest land or timberland. The proposed project would, therefore, not impact forest land or timberland.

**(No Impact)**

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

According to the Santa Clara County Important Farmland 2016 map, the project site and most of the surrounding area are designated as Urban Built-Up Land. There is no designated forest land on the project site (including the area of the proposed mixed-use development and trail improvements) or in the surrounding area. An isolated parcel of existing agricultural lands, currently used for row crop cultivation, is located approximately 70 feet northeast of the project site (as measured from the area of the proposed trail improvements). Development of the proposed project would increase the density and intensity of urban uses surrounding existing agricultural lands. However, these agricultural lands are part of the Martial Cottle Park and are used primarily for educational purposes as a demonstration of Santa Clara County's agricultural heritage.[16] Martial Cottle Park has been permanently preserved for agricultural uses and development of the proposed project would not result in conversion of this property to non-agricultural use. For these reasons, the project would not result in conversion of farmland to non-agricultural uses or conversion of forest land to non-forest uses and there would be no impact.

**(No Impact)**

### 3.2.2.2 *Cumulative Impacts*

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

The geographic area for cumulative agricultural and forestry resource impacts is the County of Santa Clara. As discussed above, the project would have no impact on agricultural or forest resources because no such resources are present on or adjacent to the project site (including the area of the proposed mixed-use development and trail improvements) and the nearest agricultural lands (Martial Cottle Park) have been permanently preserved for agricultural uses; therefore, the project would not result in a cumulatively considerable contribution to agricultural and forest resources impact.

**(No Cumulative Impact)**

[16] County of Santa Clara Regional Parks and Recreation Areas. "Martial Cottle Park; About." Accessed September 16, 2020. https://www.sccgov.org/sites/parks/parkfinder/pages/martialcottle.aspx

## 3.3 AIR QUALITY

The discussion in this section is based in part on a project-specific Air Quality and Greenhouse Gas (GHG) Assessment prepared by Illingworth & Rodkin, Inc. dated November 10, 2020 and revised January 28, 2022. This report is attached to this Draft EIR as Appendix B.

### 3.3.1 Environmental Setting

#### 3.3.1.1 *Background Information*

**Criteria Pollutants**

Air quality in the Bay Area is assessed related to six common air pollutants (referred to as criteria pollutants), including ground-level ozone ($O_3$), nitrogen oxides ($NO_x$), particulate matter (PM), carbon monoxide (CO), sulfur oxides ($SO_x$), and lead.[17] Criteria pollutants are regulated because they result in health effects. An overview of the sources of criteria pollutants and their associated health are summarized in Table 3.3-1. The most commonly regulated criteria pollutants in the Bay Area are discussed further below.

**Table 3.3-1: Health Effects of Air Pollutants**

| Pollutants | Sources | Primary Effects |
|---|---|---|
| $O_3$ | Atmospheric reaction of organic gases with nitrogen oxides in sunlight | • Aggravation of respiratory and cardiovascular diseases<br>• Irritation of eyes<br>• Cardiopulmonary function impairment |
| Nitrogen Dioxide ($NO_2$) | Motor vehicle exhaust, high temperature stationary combustion, atmospheric reactions | • Aggravation of respiratory illness<br>• Reduced visibility |
| Fine Particulate Matter ($PM_{2.5}$) and Coarse Particulate Matter ($PM_{10}$) | Stationary combustion of solid fuels, construction activities, industrial processes, atmospheric chemical reactions | • Reduced lung function, especially in children<br>• Aggravation of respiratory and cardiorespiratory diseases<br>• Increased cough and chest discomfort<br>• Reduced visibility |
| Toxic Air Contaminants (TACs) | Cars and trucks, especially diesel-fueled; industrial sources, such as chrome platers; dry cleaners and service stations; building materials and products | • Cancer<br>• Chronic eye, lung, or skin irritation<br>• Neurological and reproductive disorders |

High $O_3$ levels are caused by the cumulative emissions of reactive organic gases (ROG) and $NO_x$. These precursor pollutants react under certain meteorological conditions to form high $O_3$ levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to

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

reduce $O_3$ levels. The highest $O_3$ levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources.

PM is a problematic air pollutant of the Bay Area. PM is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less ($PM_{10}$) and fine particulate matter where particles have a diameter of 2.5 micrometers or less ($PM_{2.5}$). Elevated concentrations of $PM_{10}$ and $PM_{2.5}$ are the result of both region-wide emissions and localized emissions.

**Toxic Air Contaminants**

TACs are a broad class of compounds known to have health effects. They include but are not limited to criteria pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, diesel fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway).

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs. Diesel exhaust is a complex mixture of gases, vapors, and fine particles. Medium- and heavy-duty diesel trucks represent the bulk of DPM emissions from California highways. The majority of DPM is small enough to be inhaled into the lungs. Most inhaled particles are subsequently exhaled, but some deposit on the lung surface or are deposited in the deepest regions of the lungs (most susceptible to injury).[18] Chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the California Air Resources Board (CARB).

**Sensitive Receptors**

Some groups of people are more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, and elementary schools.

### 3.3.1.2 *Regulatory Framework*

**Federal and State**

Clean Air Act

At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The federal Clean Air Act requires the EPA to set national ambient air quality standards for the six common criteria pollutants (discussed previously), including PM, $O_3$, CO, $SO_x$, $NO_x$, and lead.

[18] California Air Resources Board. "Overview: Diesel Exhaust and Health." Accessed September 16, 2020. https://www.arb.ca.gov/research/diesel/diesel-health.htm.

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 EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate. Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. Attainment status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB.

Risk Reduction Plan

To address the issue of diesel emissions in the state, CARB developed the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles. In addition to requiring more stringent emission standards for new on-road and off-road mobile sources and stationary diesel-fueled engines to reduce particulate matter emissions by 90 percent, the plan involves application of emission control strategies to existing diesel vehicles and equipment to reduce Diesel Particulate Matter (DPM) (in additional to other pollutants). Implementation of this plan, in conjunction with stringent federal and CARB-adopted emission limits for diesel fueled vehicles and equipment (including off-road equipment), will significantly reduce emissions of DPM and $NO_X$.

**Regional**

2017 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how state and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how BAAQMD will continue its progress toward attaining State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-greenhouse gases (GHGs) that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.[19]

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. Jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing air quality impacts developed by BAAQMD within their CEQA Air Quality Guidelines. The guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

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

Community Air Risk Evaluation Program

Under the Community Air Risk Evaluation (CARE) program, BAAQMD has identified areas with high TAC emissions, and sensitive populations that could be affected by them, and uses this information to establish policies and programs to reduce TAC emissions and exposures. Impacted communities identified to date are located in Concord, Richmond/San Pablo, San José, eastern San Francisco, western Alameda County, Vallejo, San Rafael, and Pittsburg/Antioch. The main objectives of the program are to:

- Evaluate health risks associated with exposure to TACs from stationary and mobile sources;
- Assess potential exposures to sensitive receptors and identify impacted communities;
- Prioritize TAC reduction measures for significant sources in impacted communities; and
- Develop and implement mitigation measures to improve air quality in impacted communities.

## Local

Envision San José 2040 General Plan

The proposed project would be subject to the air quality policies listed in the General Plan, including the following:

**General Plan Air Quality Policies**

| Policy | Description |
|---|---|
| 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. |
| 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. |
| MS-11.1 | Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of (TACs) to avoid significant risks to health and safety. |
| MS-11.5 | Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses. |
| MS-13.1 | Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type. |
| 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 Airborne Toxic Control Measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations. |

### 3.3.1.3 *Existing Conditions*

The Bay Area is considered a non-attainment area for ground-level $O_3$ and $PM_{2.5}$ under both the federal Clean Air Act and State Clean Air Act. The area is also considered nonattainment for $PM_{10}$ under the State act, but not the federal act. The area has attained both State and federal ambient air quality standards for CO. As part of an effort to attain and maintain ambient air quality standards for $O_3$ and $PM_{10}$, BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for $O_3$ precursor pollutants (ROG and $NO_X$), $PM_{10}$, and $PM_{2.5}$, and apply to both construction period and operational period impacts.

#### Climate and Topography

The City of San José is located in the Santa Clara Valley within the San Francisco Bay Area Air Base. 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 Santa Clara Valley is bounded by the San Francisco Bay to the north, 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 the valley's northwest-southwest axis.

#### Regional and Local Air Pollutant Levels

BAAQMD monitors air pollutants at various sites within the Bay Area. The nearest official monitoring station to the site is located at 158 East Jackson Street in San José, approximately eight miles northwest of the site. Pollutant monitoring results for the years 2017 to 2019 at the San José monitoring station are shown in Table 3.3-2.

**Table 3.3-2: Ambient Air Quality Standards Violations and Highest Concentrations**

| Pollutant | Standard | Days Exceeding Standard | | |
|---|---|---|---|---|
| | | 2017 | 2018 | 2019 |
| SAN JOSÉ STATION | | | | |
| Ozone | State 1-hour | 4 | 0 | 2 |
| | Federal 8-hour | 4 | 0 | 2 |
| Carbon Monoxide | Federal 8-hour | 0 | 0 | 0 |
| Nitrogen Dioxide | State 1-hour | 0 | 0 | 0 |
| $PM_{10}$ | Federal 24-hour | 0 | 0 | 0 |
| | State 24-hour | 6 | 0 | 4 |
| $PM_{2.5}$ | Federal 24-hour | 6 | 15 | 0 |

Source: BAAQMD. Air Pollution Summaries (2017 – 2019). Available at: https://www.baaqmd.gov/about-air-quality/air-quality-summaries

The Bay Area does not meet State or federal ambient air quality standards for ground level $O_3$ and $PM_{2.5}$, no does it meet State standards for $PM_{10}$. The Bay Area is considered in attainment or unclassified for all other pollutants.

### Local Community Risks/ Toxic Air Contaminants

The project area includes both roadway and stationary sources of TAC emissions within 1,000 feet of the site. Roadway TAC sources with traffic volumes of over 10,000 vehicles per day and within 1,000 feet of the site are Blossom Hill Road, adjacent to the southern project boundary and SR 85, adjacent to the east and northeastern property boundary. There are five stationary sources within 1,000 feet of the site, including one BAAQMD-permitted stationary TAC source. The stationary sources include four gas stations and one generator at a grocery store (refer to Section 3.3.3, Non-CEQA Effects for a description of the stationary TAC sources).

### Sensitive Receptors

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. The closest sensitive receptors to the project site are residences to the west, across Canoas Creek from the project site. There are more sensitive receptors at farther distances, including residences south of the project site across Blossom Hill Road and a daycare for children (ages three months to 4.5 years old) north of the project site (First Step Learning Center).

### Odors

Common sources of odors and odor complaints include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations, and landfills. Significant sources of offending odors are typically identified based on complaint histories received and compiled by BAAQMD. Typical large sources of odors that result in complaints are wastewater treatment facilities, landfills including composting operations, food processing facilities, and chemical plants. Other sources, such as restaurants, paint or body shops, and coffee roasters typically result in localized sources of odors.

The project site is in a residential and commercial area and is not surrounded by facilities that produce substantial odors. There are restaurants located on Blossom Hill Road, within 300 feet of the project site.

## 3.3.2 Impact Discussion

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

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

### 3.3.2.1 *Thresholds of Significance*

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for judgment on the part of the lead agency and must be based to the extent possible on scientific and factual data. The City of San José has considered the air quality thresholds updated by BAAQMD in May 2017 and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin and conservative in terms of the assessment of health effects associated with TACs and $PM_{2.5}$. The BAAQMD CEQA Air Quality thresholds used in this analysis are identified in Table 3.3-3 below.

**Table 3.3-3: BAAQMD Air Quality Significance Thresholds**

| Pollutant | Construction Thresholds | Operation Thresholds | |
|---|---|---|---|
| | Average Daily Emissions (pounds/day) | Annual Daily Emissions (pounds/year) | Annual Average Emissions (tons/year) |
| **Criteria Air Pollutants** | | | |
| ROG, $NO_x$ | 54 | 54 | 10 |
| $PM_{10}$ | 82 (exhaust) | 82 | 15 |
| $PM_{2.5}$ | 54 (exhaust) | 54 | 10 |
| CO | Not Applicable | 9.0 ppm (eight-hour) or 20.0 ppm (one-hour) | |
| Fugitive Dust | Dust Control Measures/Best Management Practices | Not Applicable | |
| **Health Risks and Hazards for New Sources (within a 1,000-foot Zone of Influence)** | | | |
| **Health Hazard** | **Single Source** | **Combined Cumulative Sources** | |
| Excess Cancer Risk | 10 per one million | 100 per one million | |
| Hazard Index | 1.0 | 10.0 | |
| Incremental Annual $PM_{2.5}$ | 0.3 $\mu g/m^3$ | 0.8 $\mu g/m^3$ (average) | |

### 3.3.2.2 *Project Impacts*

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

The BAAQMD CEQA Air Quality Guidelines set forth criteria for determining consistency with the 2017 CAP. In general, a project is considered consistent if, a) the plan supports the primary goals of the 2017 CAP; b) it includes relevant control measures; and c) it does not interfere with implementation of 2017 CAP control measures. The project's consistency with the Bay Area 2017 CAP is summarized below in Table 3.3-4.

| Table 3.3-4: Bay Area 2017 Clean Air Plan Applicable Control Measures | | |
|---|---|---|
| **Control Measures** | **Description** | **Project Consistency** |
| ***Transportation Measures*** | | |
| Bicycle and Pedestrian Access and Facilities | Encourage planning for bicycle and pedestrian facilities in local plans, e.g., general and specific plans, fund bike lanes, routes, paths and bicycle parking facilities. | The project would include construction of trail improvements and bicycle parking consistent with City requirements. The proposed off-site trail improvements would extend from the northern project boundary along Canoas Creek to Martial Cottle Park increasing connectivity and non-automotive access to the project site and Martial Cottle Park. In addition, there are sidewalks and crosswalks along the surrounding roadways to facilitate non-automotive access. The project is consistent with this measure. |
| Land Use Strategies | Support implementation of Plan Bay Area, maintain and disseminate information on current climate action plans and other local best practices. | The project proposes a mixed-use development within a developed area in proximity to transit and commercial/retail businesses. This would encourage shorter distances of travel to and from nearby amenities. Therefore, the project is consistent with this measure. |
| *Building Measures* | | |
| Green Building | Identify barriers to effective local implementation of CALGreen (Title 24) statewide building energy code; develop solutions to improve implementation/ enforcement. Engage with additional partners to target reducing emissions from specific types of buildings. | The project would achieve LEED Silver certification and would be required to comply with the City's Green Building Ordinance and the most recent CALGreen requirements. The project is consistent with this measure. |
| Urban Heat Island Mitigation | Develop and urge adoption of a model ordinance for "cool parking" that promotes the use of cool surface treatments for new parking facilities, as well | The project would provide surface parking and enclosed parking at-grade. The project would plant new landscaping and trees to reduce urban heat |

| Table 3.3-4: Bay Area 2017 Clean Air Plan Applicable Control Measures | | |
|---|---|---|
| **Control Measures** | **Description** | **Project Consistency** |
| | as existing surface lots undergoing resurfacing. Develop and promote adoption of model building code requirements for new construction or reroofing/roofing upgrades for commercial and residential multi-family housing. | island effect within the surface parking. Therefore, the project is consistent with this control measure. |
| *Natural and Working Lands Measures* | | |
| Urban Tree Planting | Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations, the Air District's technical guidance, best management practices for local plans, and CEQA review. | A total of 102 trees on-site and 12 street trees adjacent to the project site would be removed as part of the project. The project would be required to comply with the City's tree replacement policy which would result in 354 replacement trees being planted. Therefore, the project is consistent with this control measure. |
| *Waste Management Measures* | | |
| Recycling and Waste Reduction | Develop or identify and promote model ordinances on community-wide zero waste goals and recycling of construction and demolition materials in commercial and public construction projects. | The City adopted the Zero Waste Strategic Plan which outlines policies to help the City foster a healthier community and achieve its Green Vision goals, including 75 percent diversion by 2013 and zero waste by 2022. In addition, the project would comply with the City's Construction and Demolition Diversion Program during construction which ensures that at least 75 percent of construction waste generated by the project is recovered and diverted from landfills. Therefore, the project is consistent with this control measure. |

The project is consistent with the planned growth in the General Plan and the applicable control measures identified above. Therefore, the proposed project would not result in a significant impact related to consistency with the Bay Area 2017 CAP.

**Construction Period Emissions – Criteria Pollutants**

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities.

Mixed-Use Development

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities. The proposed land uses of the project were input into CalEEMod. Table 3.3-5 shows the construction period emissions associated with the proposed project.

**Table 3.3-5: Construction Period Emissions**

| Scenario | ROG | NOx | $PM_{10}$ Exhaust | $PM_{2.5}$ Exhaust |
|---|---|---|---|---|
| Construction Emissions Per Year (tons) | | | | |
| 2022 | 0.25 | 0.93 | 0.05 | 0.04 |
| 2023 | 1.57 | 1.56 | 0.10 | 0.07 |
| 2024 | 1.56 | 1.47 | 0.09 | 0.06 |
| 2025 | 0.31 | 0.43 | 0.03 | 0.02 |
| Annualized Daily Construction Emissions (pounds/day) | | | | |
| 2022 (132 construction workdays) | 3.75 | 14.13 | 0.79 | 0.56 |
| 2023 (261 construction workdays) | 12.03 | 11.99 | 0.74 | 0.53 |
| 2024 (262 construction workdays) | 11.91 | 11.26 | 0.69 | 0.48 |
| 2025 (107 construction workdays) | 5.87 | 8.08 | 0.53 | 0.33 |
| *BAAQMD Thresholds* | *54* | *54* | *82* | *54* |
| **Exceed Threshold?** | **No** | **No** | **No** | **No** |

Notes: [1]Assumes 762 construction workdays, Monday through Saturday 7 AM to 7 PM

Source: Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Air Quality and Greenhouse Gas Assessment.* November 10, 2020, revised January 28, 2022.

As shown in Table 3.3-5 construction period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds. Therefore, the project would not result in a significant impact for construction emissions. The proposed project would not conflict with or obstruct implementation of the Bay Area 2017 CAP and impacts would be less than significant.

Trail Improvements

The California Emissions Estimator model (CalEEMod) Version 2016.3.2 was used to estimate annual emissions from construction activities. The proposed trail land use was input into CalEEMod.

| Table 3.3-6: Construction Period Emissions | | | | |
|---|---|---|---|---|
| **Scenario** | **ROG** | **NOx** | **$PM_{10}$ Exhaust** | **$PM_{2.5}$ Exhaust** |
| Construction Emissions Per Year (tons) | | | | |
| 2022 | 0.02 | 0.17 | 0.01 | 0.01 |
| Annualized Daily Construction Emissions (pounds/day) | | | | |
| 2022 (35 construction workdays) | 0.91 | 9.69 | 0.45 | 0.40 |
| *BAAQMD Thresholds* | *54* | *54* | *82* | *54* |
| **Exceed Threshold?** | **No** | **No** | **No** | **No** |
| Source: Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Trail Construction, San Jose, CA Addendum to the Air Quality and Greenhouse Gas Assessment.* August 4, 2021. | | | | |

As shown in Table 3.3-6, construction period criteria pollutant emissions associated with the trail improvements would not exceed the BAAQMD significance thresholds. Therefore, the project would not result in a significant impact for construction emissions. The proposed project would not conflict with or obstruct implementation of the Bay Area 2017 CAP and impacts would be less than significant.

**Operational Period Emissions – Criteria Pollutants**

Mixed-Use Development

Operational period criteria pollutant emissions associated with the project would be generated primarily from vehicles driven by future residents. CalEEMod was used to estimate the emissions from operation of the project assuming full build out. The earliest the project would be constructed and operational would be 2026. Any emissions associated with build out later than 2026 would be lower due to assumed efficiencies over time. The assumptions and results are described further in Appendix B of this document. The estimated daily operational period emissions from the proposed project are summarized in Table 3.3-7 below.

| Table 3.3-7: Summary of Project Operational Emissions | | | | |
|---|---|---|---|---|
| **Scenario** | **ROG** | **$NO_x$** | **$PM_{10}$** | **$PM_{2.5}$** |
| 2026 Project Operational Emissions (tons/year) | 2.96 | 0.79 | 1.28 | 0.34 |
| *BAAQMD Threshold (tons/year)* | *10* | *10* | *15* | *10* |
| **Exceed Threshold?** | **No** | **No** | **No** | **No** |
| 2026 Project Operational Emissions (pounds/ day) | 16.2 | 4.3 | 7.0 | 1.9 |
| *BAAQMD Threshold (pounds/ day)* | *54* | *54* | *82* | *54* |

| | | | | |
|---|---|---|---|---|
| **Exceed Threshold?** | **No** | **No** | **No** | **No** |
| Note: Analysis assumes that there are 365 operational days per year | | | | |

Operational criteria pollutant emissions associated with the proposed project would not result in emissions above established thresholds. The proposed project would not conflict with or obstruct implementation of the Bay Area 2017 CAP and impacts would be less than significant.

Trail Improvements

The proposed trail improvements would be limited in use to pedestrians and bicycles and would not include combustion sources that would emit criteria pollutants during operation. Thus, operational emissions associated with the trail improvements would be less than significant.

**(Less Than Significant Impact)**

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

Construction and operational period criteria pollutant emissions associated with the project would not exceed the BAAQMD significance thresholds (refer to the previous discussion). Since the project would have a less than significant criteria pollutant impact, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment.

**(Less Than Significant Impact)**

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

**Fugitive Dust**

Construction activities associated with the mixed-use development and trail improvements, 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 soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce the emissions. As described below, the project includes Standard Permit Conditions to reduce this impact to a less than significant level.

Standard Permit Conditions: The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

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

- Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

With implementation of the above Standard Permit Conditions, the mixed-use development and trail improvements would have a less than significant impact with regard to fugitive dust emissions. The project and trail improvements would, therefore, not expose sensitive receptors to substantial pollutant concentrations.

Toxic Air Contaminants

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. Construction exhaust emissions pose health risks for sensitive receptors such as surrounding residents and the First Step Learning Center. The primary community risk impact issues associated with construction emissions are cancer risk and exposure to DPM and $PM_{2.5}$. The health risk assessment of the mixed-use development and trail construction activities (refer to Appendix B) evaluated potential health effects of sensitive receptors at nearby residences and identified a maximally exposed individual (MEI) for construction emissions of DPM and $PM_{2.5}$. The MEI is a single-family residence at the end of Comanche Court, approximately 170-feet southeast of the project site, across Blossom Hill Road. The results of the assessment for project construction are summarized in Table 3.3-8 and shown in Figure 3.3-1 below.

**Table 3.3-8: Construction Risk Impacts at the Off-Site Maximally Exposed Individual**

| TAC Source | Cancer Risk (per million) | Annual PM2.5 Concentration ($\mu g/m^3$) | Hazard Index |
|---|---|---|---|
| *Residential Exposure* | | | |
| Mixed-Use Development Construction (Years 0-4) unmitigated | 19.55 | 0.11 | 0.01 |

| Table 3.3-8: Construction Risk Impacts at the Off-Site Maximally Exposed Individual | | | |
|---|---|---|---|
| **TAC Source** | **Cancer Risk (per million)** | **Annual PM2.5 Concentration ($\mu g/m^3$)** | **Hazard Index** |
| Trail Construction (Years 0-4) unmitigated | 0.12 | <0.01 | <0.01 |
| Total Project unmitigated | 19.67 | <0.12 | <0.02 |
| ***BAAQMD Single Source Thresholds*** | *>10* | *>0.3* | *>1.0* |
| **Exceeds Threshold?** | **Yes** | **No** | **No** |
| *First Step Learning Center* | | | |
| Mixed-Use Development Construction (Years 0-4) unmitigated | 7.15 | 0.02 | <0.01 |
| Trail Construction (Years 0-4) unmitigated | 0.09 | <0.01 | <0.01 |
| Total Project unmitigated | 7.24 | <0.02 | <0.02 |
| ***BAAQMD Single Source Thresholds*** | *>10* | *>0.3* | *>1.0* |
| **Exceeds Threshold?** | **No** | **No** | **No** |

As shown in Table 3.3-8, the construction risk impacts associated with the proposed mixed-use development and trail improvements would not exceed the BAAQMD single-source thresholds for $PM_{2.5}$ concentrations, or the hazard index at either receptor; however, the proposed mixed-use development and trail improvements would exceed the single-source threshold for cancer risk.

**Impact AIR-1:** Construction activities associated with the proposed project would expose sensitive receptors near the project site to Toxic Air Contaminant emissions in excess of the BAAQMD cancer risk threshold of >10 per million.

**Mitigation Measure:**

**MM AIR-1.1:** Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or the Director's designee 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 below.

- All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall, at a minimum, meet U.S. EPA Tier 4 final emission standards for particulate matter ($PM_{10}$ and $PM_{2.5}$).
- If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. Environmental Protection Agency (EPA) emission standards for

Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 88 percent or greater reduction in particulate matter exhaust in comparison to uncontrolled equipment.

- Use of alternatively fueled or electric equipment.

- Stationary cranes and construction generator sets shall be powered by electricity.

Alternatively, the project applicant could develop a plan that reduces on- and near-site construction emissions by a minimum 88 percent or greater. The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).

With implementation of Mitigation Measures MM AIR-1.1, the cancer risk would be reduced to 5.23 cases per one million, which is below the BAAQMD single-source threshold of 10.0 per million. Therefore, the project would have a less than significant off-site community risk impact from construction.

**(Less than Significant Impact with Mitigation Incorporated)**

**Operational TAC Impacts on Off-Site Sensitive Receptors**

Operational emissions from the proposed mixed-use development would include emissions from vehicular traffic. Traffic from residential/mixed-use projects are not typically considered sources of TAC or $PM_{2.5}$ emissions that could adversely affect sensitive receptors. The mixed-use development would generate traffic associated with residential and commercial uses that would be distributed over various roadways. These are anticipated to consist of mostly passenger vehicles with a low percentage of diesel trucks that would emit TACs. BAAQMD considers projects generating 10,000 total vehicles per day to be a low-impact source of TACs. The proposed project would generate 1,768 daily trips, which is less than 10,000 total vehicle trip per day. Therefore, the project would not expose off-site sensitive receptors to substantial operational TAC concentrations or emissions.

As noted under criterion a., the proposed trail improvements would not include combustion sources that would emit DPM and $PM_{2.5}$. Thus, the proposed off-site trail improvements would not be a source of TACs during operation and would have a less than significant impact.


Source: Illingworth & Rodkin, Inc., November 13, 2020.

MAXIMUM-MODELED CANCER RISK AND TAC CONCENTRATION LOCATION | FIGURE 3.3-1

**Criteria Pollutant Emissions**

In a 2018 decision (Sierra Club v. County of Fresno), the State Supreme Court determined that CEQA requires that when a project's criteria air pollutant emissions would exceed applicable thresholds and contribute a cumulatively considerable contribution to a significant cumulative regional criteria pollutant impact, the potential for the project's emissions to affect human health in the air basin must be disclosed. State and federal ambient air quality standards are health-based standards and exceedances of those standards result in continued unhealthy levels of air pollutants. As stated in the 2017 BAAQMD CEQA Air Quality Guidelines, air pollution by its nature is largely a cumulative impact. No single project is sufficient in size, by itself, to result in nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulatively significant adverse air quality impacts. In developing thresholds of significance for air pollutants, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project has a less than significant impact for criteria pollutants, it is assumed to have no adverse health effects.

The proposed project would result in a less than significant operational and construction criteria pollutant impact as discussed previously. Therefore, the project would not expose sensitive receptors to substantial pollutant concentrations.

**(Less than Significant Impact)**

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

Odors are generally considered an annoyance rather than a health hazard. Land uses that have the potential to be sources of odors that generate complaints include, but are not limited to, wastewater treatment plants, landfills, composting operations, and food manufacturing facilities.

The project would redevelop an existing transit station surface parking lot with a mixed-use development and, at a separate future stage, construct a 0.6-mile trail connecting the project site to Martial Cottle Park. The mixed-use development and trail improvements would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors; however, the odors would be localized and temporary and would not affect people off-site.

Residential/mixed-use developments and recreational trails such as those proposed by the project, do not typically generate objectionable odors. The project would, therefore, not create objectionable odors that would affect the existing residents near the site.

**(No Impact)**

### 3.3.2.3 *Cumulative Impacts*

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

### Cumulative Construction Air Quality

Cumulative construction activities associated with the proposed mixed-use development, trail improvements, and the cumulative project shown in Table 3.0-1 could temporarily affect local air quality. Due to the distance between the proposed project and the cumulative project (greater than 1,000 feet) and uncertainly in project construction schedules, it is unlikely that the two projects would have overlapping construction schedules for ground-disturbing activities such that cumulative construction-related air quality impacts would be significant. Other cumulative sources of community risks include SR 85, Blossom Hill Road and the Gas N' Go gas station approximately 290 feet west of the project site, along Blossom Hill Road. The project and cumulative community risk impacts are shown in Table 3.3-9 below.

**Table 3.3-9: Cumulative Community Risk Impacts from Combined TAC Sources**

| Source | Maximum Cancer Risk (per million) | $PM_{2.5}$ Concentration ($\mu g/m^3$) | Hazard Index |
|---|---|---|---|
| **Project Impacts** | | | |
| Total Project Construction (Years 0-4) | 19.55 | 0.11 | 0.01 |
| *BAAQMD Single-Source Threshold* | *>10.0* | *>0.3* | *>1.0* |
| **Exceed Threshold?** | **Yes** | **No** | **No** |
| **Cumulative Sources** | | | |
| State Route 85 | 4.64 | 0.36 | <0.01 |
| Blossom Hill Road | 3.98 | 0.63 | <0.01 |
| Gas N' Go (Facility ID#111360, Gas Dispensing Facility) MEI Distance at >1,000 feet | 0.18 | - | <0.01 |
| Cumulative Sources | 28.35 | 1.10 | <0.04 |
| *BAAQMD Cumulative Source Threshold* | *>100* | *>0.8* | *>10.0* |
| Exceed threshold before mitigation? | **No** | **Yes** | **No** |

Source: Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Air Quality and Greenhouse Gas Analysis.* November 10, 2020, revised January 28, 2022.

The BAAQMD CEQA Guidelines state that in instances where a pre-existing cumulative health risk impact exists, the project's individual contribution to that cumulative impact should be analyzed.[20] If project health risks would be reduced to below the single-source thresholds with best available mitigation measures, the project's contribution to pre-existing cumulative impacts would not be cumulatively considerable.[21]

As shown in Table 3.3-9, the combined non-project cumulative sources would exceed the cumulative threshold of 0.8 $\mu g/m^3$ for $PM_{2.5,}$ resulting in pre-existing cumulative health impacts. The project and trail improvement would not exceed the single-source threshold for the cancer risk, $PM_{2.5,}$ or hazard

[20] BAAQMD. *2017 CEQA Guidelines*. May 2017. Page 5-16. https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en

[21] Correspondence with Arena Flores. MSc, Environmental Planner, BAAQMD, February 23, 2021.

index with incorporation of MM AIR-1.1. Therefore, the project's contribution to existing the cumulative impact from area roadways would not be cumulatively considerable.

**Cumulative Operational Air Quality**

Past, present, and future development projects contribute to the region's adverse air quality impacts on a cumulative basis. By its very nature, air pollution is largely a cumulative impact.

In developing thresholds of significance for air pollution, BAAQMD considered the emission levels for which a project's individual emissions would be cumulatively considerable. If a project exceeds the identified significance thresholds, its emissions would be cumulatively considerable, resulting in significant adverse air quality impacts to the region's air quality conditions. As described above under checklist question a) through d) above, the proposed mixed-use development and trail improvement would not exceed the BAAQMD thresholds for operational criterial pollutant emissions; therefore, it would not make a cumulatively considerable contribution to regional air quality impacts.

**(Less than Significant Cumulative Impact)**

### 3.3.3 Non-CEQA Effects

Per *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 *(BIA v. BAAQMD)*, effects of the environment on the project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San José has policies that address existing air quality conditions affecting a proposed project.

Pursuant to General Plan policies MS-10.1, MS-11.1, and MS-11.2, a health risk assessment was prepared to ensure sensitive receptors introduced onto the project site are not exposed to substantial TAC emissions. Community health risk assessments typically look at all sources of TACs (including highways, streets, and stationary sources identified by BAAQMD) within 1,000 feet of a project site as discussed below.

**Community Risk Impacts**

Increased community risk can occur by introducing a new sensitive receptor, including residential uses, in proximity to an existing source of TACs. BAAQMD recommends a 1,000-foot radius for assessing community risks and hazards from TAC mobile and stationary sources. The proposed trail improvements would not introduce new long-term on-site sensitive receptors.[22]

A roadway screening analysis was completed for Blossom Hill Road adjacent to the southern project boundary) and SR 85 (adjacent to the east and northeastern project boundary) since this local roadway and highway are located within 1,000 feet of the site (proposed to have future residents) and have average daily traffic (ADT) volumes of over 10,000 vehicles per day. The ADT volumes were based on the peak-hour traffic volumes included in the project's traffic analysis for background plus project conditions. Community risk impacts from the TAC sources upon the project site are summarized in Table 3.3-10 below.

[22] Casey Divine, Consultant. Illingworth & Rodkin, Inc. Personal Communication. June 25, 2021.

| Table 3.3-10: Cumulative Community Risk Impacts on the On-Site Sensitive Receptors | | | |
|---|---|---|---|
| **Source** | **Maximum Cancer Risk (per million)** | **$PM_{2.5}$ Concentration ($\mu g/m^3$)** | **Hazard Index** |
| State Route 85 | 3.48 | 0.27 | <0.01 |
| Blossom Hill Road | 4.10 | 0.43 | <0.01 |
| Gas N' Go (Facility ID #111360, Gas Dispensing Facility) MEI Distance at >1,000 feet | 0.18 | - | <0.01 |
| *BAAQMD Single-Source Threshold* | *>10.0* | *>0.3* | *>1.0* |
| **Exceed Threshold?** | **No** | **Yes** | **No** |
| Cumulative Sources | 7.76 | 0.7 | <0.03 |
| *BAAQMD Cumulative Source Threshold* | *<100* | *>0.8* | *>10.0* |
| **Exceed Threshold?** | **No** | **No** | **No** |
| Source: Illingworth & Rodkin Inc. *Blossom Hill Station TOD Air Quality and Greenhouse Gas Assessment.* November 10, 2021, revised January 28, 2022. | | | |

As shown in Table 3.3-10 above, all cumulative sources of TACs would be below the single-source and cumulative thresholds for community risk, with the exception of $PM_{2.5}$ concentrations from Blossom Hill Road which would exceed the single-source threshold of >0.3 $\mu g/m^3$. To reduce long-term annual $PM_{2.5}$ exposure for new project residents, the following conditions of approval would be required to ensure the project would comply with City policies.

**Conditions of Approval:**

- Install air filtration in all residential buildings to ensure that annual $PM_{2.5}$ concentrations do not exceed 0.3$\mu g/m^3$ (Note that the analysis identified maximum impacts to planned residences as a whole, though some residences would have concentrations below the threshold based on their location relative to the source emissions.) Air filtration devices shall be rated MERV13 or higher for all portions of the site, consistent with 2019 California Building Code. To ensure adequate health protection to sensitive receptors (i.e., third trimester fetuses, infants, children, and adults), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered. An ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be required which at a minimum, ensures that the use agreement and other property documents:
- (1) require cleaning, maintenance, and monitoring of the affected buildings 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 replacement of the filters, as needed.

With implementation of the above Conditions of Approval, the potential health effects related to $PM_{2.5}$ exposure for new project residents would be reduced and the project would be consistent with Policy MS-10.1, MS-11.1 and MS11.2.

## 3.4 BIOLOGICAL RESOURCES

This discussion is based, in part on an Arborist Report, and a Biological Resources Report prepared by *H.T. Harvey* on February 19, 2020 and January 27, 2022, respectively. These reports are attached to this Draft EIR as Appendix C. Public comments received during the NOP scoping process pertained to tree protection and replacement as well as impacts to aquatic species. These topics are discussed in Sections 3.4.2, below.

### 3.4.1 Environmental Setting

#### 3.4.1.1 *Regulatory Framework*

**Federal and State**

Endangered Species Act

Individual plant and animal species listed as rare, threatened, or endangered under State and federal Endangered Species Acts are considered special-status species. Federal and State endangered species legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Permits may be required from both the USFWS and CDFW if activities associated with a proposed project would result in the take of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" these species. Take is more broadly defined by the federal Endangered Species Act to include harm of a listed species.

In addition to species listed under State and federal Endangered Species Acts, Sections 15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, must be considered as part of the environmental review process. These may include plant species listed by the California Native Plant Society and CDFW-listed Species of Special Concern.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits killing, capture, possession, or trade of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. Hunting and poaching are also prohibited. The taking and killing of birds resulting from an activity is not prohibited by the MBTA when the underlying purpose of that activity is not to take birds.[23] Nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Sections 3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

[23] United States Department of the Interior. "Memorandum M-37050. The Migratory Bird Treaty Act Does Not Prohibit Incidental Take." Accessed September 16, 2020. https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

Sensitive Habitat Regulations

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, State, and local regulations, and are generally subject to regulation by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the federal Clean Water Act (e.g., Sections 303, 304, 404) and State of California Porter-Cologne Water Quality Control Act.

Fish and Game Code Section 1602

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Section 1602 of the Fish and Game Code. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

## Regional and Local

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (Habitat Plan) covers approximately 520,000 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (Valley Water), Santa Clara Valley Transportation Authority (VTA), USFWS, and CDFW. The Habitat Plan is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

Envision San José 2040 General Plan

The following General Plan policies related to biological resources are applicable to proposed projects in San José:

**Biological Resources Policies**

| Policy | Description |
|---|---|
| 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. |
| ER-5.2 | Require that development projects incorporate measures to avoid impacts to nesting migratory birds. |
| 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. |
| 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. |
| MS-21.6 | As a condition of new development, require the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines. |
| MS-21.8 | For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:<br>1. Avoid conflicts with nearby power lines.<br>2. Avoid potential conflicts between tree roots and developed areas.<br>3. Avoid use of invasive, non-native trees.<br>4. Remove existing invasive, non-native trees.<br>5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.<br>6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species. |
| CD-1.24 | Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse effect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest. |

San José Tree Ordinance

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees exceeding 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality. A tree removal permit is required from the City of San José for the removal of ordinance trees.

### 3.4.1.2 *Existing Conditions*

The project site is mostly paved and is developed with a bus stop, light rail station and associated parking. It is located in an urban area surrounded by existing commercial and residential development. The project site is located within the Habitat Plan study area and is designated as Urban-Suburban land.[24] Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as areas with one or more structures per 2.5 acres. The primary biological resources on-site are the existing trees.

There are 138 trees located on the project site. Of the 138 trees, 85 are ordinance-sized trees. A summary of on-site trees is included in Table 3.4-1. The location of on-site trees is shown in Figure 3.4-1.

[24] Santa Clara Valley Habitat Agency. "Geobrowser." Accessed: September 16, 2020. Available at: http://www.hcpmaps.com/habitat/

| Table 3.4-1: Summary of On-Site Trees | | | | | |
|---|---|---|---|---|---|
| **Tree #** | **Common Name** | **Scientific Name** | **Circumference (in inches)** | **Status** | **Condition** |
| 601 | Evergreen pear | *Pyrus kawakamii* | 16.8 | Ord. | Good |
| 602 | Evergreen pear | *Pyrus kawakamii* | 16.7 | Ord. | Fair |
| 603 | Evergreen pear | *Pyrus kawakamii* | 14 | Ord. | Fair |
| 604 | Evergreen pear | *Pyrus kawakamii* | 16.7 | Ord. | Good |
| 605 | Evergreen pear | *Pyrus kawakamii* | 16.7 | Ord. | Poor |
| 606 | Evergreen pear | *Pyrus kawakamii* | 7 | Non-Ord. | Poor |
| 607 | Evergreen pear | *Pyrus kawakamii* | 12 | Ord. | Poor |
| 608 | Evergreen pear | *Pyrus kawakamii* | 14 | Ord. | Poor |
| 609 | Evergreen pear | *Pyrus kawakamii* | 16 | Ord | Poor |
| 610 | Evergreen pear | *Pyrus kawakamii* | 10 | Non-Ord. | Poor |
| 611 | Evergreen pear | *Pyrus kawakamii* | 15 | Ord. | Fair |
| 612 | Evergreen pear | *Pyrus kawakamii* | 12 | Ord. | Poor |
| 613 | Evergreen pear | *Pyrus kawakamii* | 16 | Ord. | Poor |
| 614 | Evergreen pear | *Pyrus kawakamii* | 16 | Ord. | Fair |
| 615 | Evergreen pear | *Pyrus kawakamii* | 8 | Non-Ord | Fair |
| 616 | Evergreen pear | *Pyrus kawakamii* | 11 | Non-Ord. | Fair |
| 617 | Evergreen pear | *Pyrus kawakamii* | 11 | Non-Ord. | Good |
| 618 | Evergreen pear | *Pyrus kawakamii* | 14 | Ord. | Poor |
| 619 | Evergreen pear | *Pyrus kawakamii* | 11 | Non-Ord. | Fair |
| 620 | Evergreen pear | *Pyrus kawakamii* | 15 | Ord. | Good |
| 621 | Evergreen pear | *Pyrus kawakamii* | 19 | Ord | Good |
| 622 | Evergreen pear | *Pyrus kawakamii* | 22 | Ord. | Fair |
| 623 | Evergreen pear | *Pyrus kawakamii* | 10 | Non-Ord | Poor |
| 624 | Coast live oak | *Quercus agrifolia* | 8 | Non-Ord. | Good |
| 625 | Coast live oak | *Quercus agrifolia* | 18 | Ord. | Good |
| 626 | Evergreen pear | *Pyrus kawakamii* | 15 | Ord. | Fair |
| 627 | Evergreen pear | *Pyrus kawakamii* | 13 | Ord. | Fair |
| 628 | Evergreen pear | *Pyrus kawakamii* | 19 | Ord. | Good |

| Table 3.4-1: Summary of On-Site Trees | | | | | |
|---|---|---|---|---|---|
| **Tree #** | **Common Name** | **Scientific Name** | **Circumference (in inches)** | **Status** | **Condition** |
| 629 | Evergreen pear | *Pyrus kawakamii* | 11 | Non-Ord. | Good |
| 630 | Chinese pistache | *Pistacia chinensis* | 19 | Ord. | Good |
| 631 | Chinese pistache | *Pistacia chinensis* | 10 | Non-Ord. | Fair |
| 632 | Chinese pistache | *Pistacia chinensis* | 9 | Non-Ord. | Fair |
| 633 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Fair |
| 634 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Fair |
| 635 | Chinese pistache | *Pistacia chinensis* | 8 | Non-Ord. | Good |
| 636 | Chinese pistache | *Pistacia chinensis* | 14 | Ord. | Fair |
| 637 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Poor |
| 638 | Chinese pistache | *Pistacia chinensis* | 9 | Non-Ord. | Good |
| 639 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Good |
| 640 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Good |
| 641 | Chinese pistache | *Pistacia chinensis* | 10 | Non-Ord. | Fair |
| 642 | Chinese pistache | *Pistacia chinensis* | 17 | Ord. | Poor |
| 643 | Chinese pistache | *Pistacia chinensis* | 14 | Ord. | Good |
| 644 | Coast live oak | *Quercus agrifolia* | 19 | Ord. | Good |
| 645 | Holly oak | *Quercus ilex* | 5 | Non-Ord. | Good |
| 646 | Coast live oak | *Quercus agrifolia* | 18 | Ord. | Good |
| 647 | Holly oak | *Quercus ilex* | 5 | Non-Ord. | Good |
| 648 | Holly oak | *Quercus ilex* | 6 | Non-Ord. | Good |
| 649 | Chinese pistache | *Pistacia chinensis* | 9 | Non-Ord. | Good |
| 650 | Coast live oak | *Quercus agrifolia* | 7 | Non-Ord. | Good |
| 651 | Holly oak | *Quercus ilex* | 5 | Non-Ord. | Good |
| 652 | Coast live oak | *Quercus agrifolia* | 8 | Non-Ord | Good |

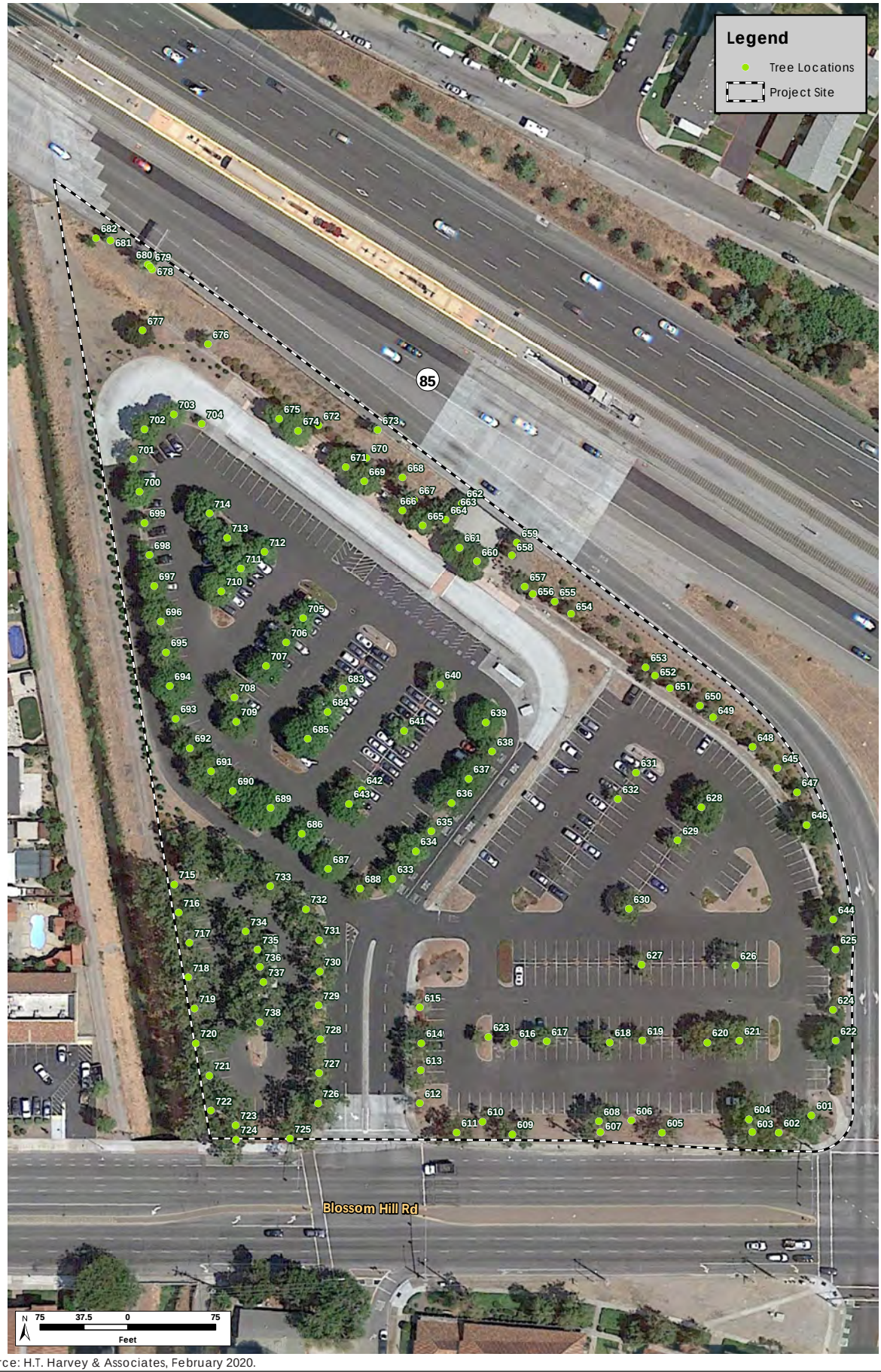
| Table 3.4-1: Summary of On-Site Trees | | | | | |
|---|---|---|---|---|---|
| **Tree #** | **Common Name** | **Scientific Name** | **Circumference (in inches)** | **Status** | **Condition** |
| 653 | Coast live oak | *Quercus agrifolia* | 10 | Non-Ord. | Fair |
| 654 | Coast live oak | *Quercus agrifolia* | 6 | Non-Ord. | Good |
| 655 | Holly oak | *Quercus ilex* | 4 | Non-Ord. | Good |
| 656 | Holly oak | *Quercus ilex* | 5 | Non-Ord. | Good |
| 657 | Red oak | *Quercus rubra* | 7 | Non-Ord. | Poor |
| 658 | Crape myrtle | *Lagerstroemia sp.* | 9 | Non-Ord. | Good |
| 659 | Crape myrtle | *Lagerstroemia sp.* | 11 | Non-Ord. | Good |
| 660 | Chinese pistache | *Pistacia chinensis* | 16 | Ord. | Good |
| 661 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Good |
| 662 | Crape myrtle | *Lagerstroemia sp.* | 16 | Ord. | Good |
| 663 | Crape myrtle | *Lagerstroemia sp.* | 10 | Non-Ord. | Good |
| 664 | Red oak | *Quercus rubra* | 9 | Non-Ord. | Fair |
| 665 | Chinese pistache | *Pistacia chinensis* | 15 | Ord. | Fair |
| 666 | Chinese pistache | *Pistacia chinensis* | 8 | Non-Ord. | Good |
| 667 | Red oak | *Quercus rubra* | 6 | Non-Ord. | Good |
| 668 | Red oak | *Quercus rubra* | 11 | Non-Ord. | Fair |
| 669 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Fair |
| 670 | Holly oak | *Quercus ilex* | 7 | Non-Ord. | Good |
| 671 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Fair |
| 672 | Holly oak | *Quercus ilex* | 5 | Non-Ord. | Good |
| 673 | Mexican fan palm | *Washingtonia robusta* | 16 | Ord. | Good |
| 674 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Good |

| Table 3.4-1: Summary of On-Site Trees | | | | | |
|---|---|---|---|---|---|
| **Tree #** | **Common Name** | **Scientific Name** | **Circumference (in inches)** | **Status** | **Condition** |
| 675 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Good |
| 676 | Holly oak | *Quercus ilex* | 5 | Non-Ord. | Fair |
| 677 | Holly oak | *Quercus ilex* | 14 | Ord. | Good |
| 678 | Mexican fan palm | *Washingtonia robusta* | 20 | Ord. | Good |
| 679 | Chinese pistache | *Pistacia chinensis* | 4 | Non-Ord. | Fair |
| 680 | Mexican fan palm | *Washingtonia robusta* | 18 | Ord. | Good |
| 681 | Mexican fan palm | *Washingtonia robusta* | 21 | Ord. | Good |
| 682 | Chinese pistache | *Pistacia chinensis* | 41 | Ord. | Fair |
| 683 | Chinese pistache | *Pistacia chinensis* | 9 | Non-Ord. | Good |
| 684 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Good |
| 685 | Chinese pistache | *Pistacia chinensis* | 14 | Ord. | Fair |
| 686 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Good |
| 687 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Fair |
| 688 | Chinese pistache | *Pistacia chinensis* | 9 | Non-Ord. | Good |
| 689 | Chinese pistache | *Pistacia chinensis* | 14 | Ord. | Good |
| 690 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Fair |
| 691 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Fair |
| 692 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Fair |
| 693 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord | Fair |
| 694 | Chinese pistache | *Pistacia chinensis* | 15 | Ord. | Fair |
| 695 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Fair |
| 696 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Fair |
| 697 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Fair |
| 698 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Good |
| 699 | Chinese pistache | *Pistacia chinensis* | 8 | Non-Ord. | Fair |
| 700 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Good |
| 701 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Good |
| 702 | Chinese pistache | *Pistacia chinensis* | 15 | Ord. | Good |

| Table 3.4-1: Summary of On-Site Trees | | | | | |
|---|---|---|---|---|---|
| **Tree #** | **Common Name** | **Scientific Name** | **Circumference (in inches)** | **Status** | **Condition** |
| 703 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Good |
| 704 | Chinese pistache | *Pistacia chinensis* | 8 | Non-Ord. | Poor |
| 705 | Chinese pistache | *Pistacia chinensis* | 15 | Ord. | Good |
| 706 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Good |
| 707 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Good |
| 708 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Good |
| 709 | Chinese pistache | *Pistacia chinensis* | 11 | Non-Ord. | Good |
| 710 | Chinese pistache | *Pistacia chinensis* | 10 | Non-Ord | Good |
| 711 | Chinese pistache | *Pistacia chinensis* | 12 | Ord. | Good |
| 712 | Chinese pistache | *Pistacia chinensis* | 10 | Non-Ord. | Fair |
| 713 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Good |
| 714 | Chinese pistache | *Pistacia chinensis* | 13 | Ord. | Good |
| 715 | London planetree | *Platanus xhispanica* | 19 | Ord. | Fair |
| 716 | London planetree | *Platanus xhispanica* | 17 | Ord. | Fair |
| 717 | London planetree | *Platanus xhispanica* | 16 | Ord. | Good |
| 718 | London planetree | *Platanus xhispanica* | 15 | Ord. | Good |
| 719 | London planetree | *Platanus xhispanica* | 17 | Ord. | Good |
| 720 | London planetree | *Platanus xhispanica* | 15 | Ord. | Good |
| 721 | London planetree | *Platanus xhispanica* | 17 | Ord. | Fair |
| 722 | London planetree | *Platanus xhispanica* | 18 | Ord. | Fair |
| 723 | Evergreen pear | *Pyrus kawakamii* | 16 | Ord. | Fair |
| 724 | Evergreen pear | *Pyrus kawakamii* | 13 | Ord. | Fair |
| 725 | Evergreen pear | *Pyrus kawakamii* | 17 | Ord. | Fair |
| 726 | London planetree | *Platanus xhispanica* | 18 | Ord. | Good |
| 727 | London planetree | *Platanus xhispanica* | 12 | Ord. | Good |
| 728 | London planetree | *Platanus xhispanica* | 12 | Ord. | Good |
| 729 | London planetree | *Platanus xhispanica* | 14 | Ord. | Good |
| 730 | London planetree | *Platanus xhispanica* | 12 | Ord. | Good |

| Table 3.4-1: Summary of On-Site Trees | | | | | |
|---|---|---|---|---|---|
| **Tree #** | **Common Name** | **Scientific Name** | **Circumference (in inches)** | **Status** | **Condition** |
| 731 | London planetree | *Platanus xhispanica* | 12 | Ord. | Good |
| 732 | London planetree | *Platanus xhispanica* | 13 | Ord. | Good |
| 733 | London planetree | *Platanus xhispanica* | 14 | Ord. | Good |
| 734 | London planetree | *Platanus xhispanica* | 12 | Ord. | Good |
| 735 | London planetree | *Platanus xhispanica* | 12 | Ord. | Good |
| 736 | London planetree | *Platanus xhispanica* | 11 | Ord. | Good |
| 737 | London planetree | *Platanus xhispanica* | 14 | Ord. | Good |
| 738 | London planetree | *Platanus xhispanica* | 18 | Ord. | Good |
| 684 | Chinese pistache | *Pistacia chinensis* | 13 | Non-Ord. | Good |
| Source: H.T. Harvey February 19, 2020 (Appendix C) | | | | | |

A reconnaissance level survey of the 7.5-acre project site (bounded by Blossom Hill Road to the south, SR 85 to the east and northeast, and Canoas Creek to the west) was conducted in August 2019. The survey did not include the area identified for a future off-site trail connection. No sensitive habitats or wetlands were identified on the project site; however, Canoas Creek is located approximately 20 feet west of the project site and forms the project's western boundary. Public comments received during the NOP scoping process included concerns regarding potential impacts to the California toad (*Anaxyrus boreas halophilus*). The California toad is a subspecies of western toad and is common in aquatic habitats in California and may be present within this segment of Canoas Creek. The western toad is not state or federally endangered or threatened and is not listed as a California species of special concern (i.e., it is not a special-status species). No endangered, threatened, or other special-status aquatic species occur within Canoas Creek.




Source: H.T. Harvey & Associates, February 2020.

TREE LOCATION MAP | FIGURE 3.4-1

### 3.4.2 Impact Discussion

For the purpose of determining the significance of the project's impact on biological resources, would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

#### 3.4.2.1 *Project Impacts*

**a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?**

The project site (including the area of the proposed mixed-use development and trail improvements) is currently developed with a bus stop, entrance to a light rail station, surface parking lot, ornamental landscaping, and gravel access road and is surrounded by urban development. As noted above and discussed under criterion b below, the project site is adjacent to Canoas Creek. Based on a site-specific Biological Resources Report prepared for the project, the segment of Canoas Creek adjacent to the project site was determined to have low quality riparian habitat and is not expected to support species identified as candidate, sensitive, or special status species. Given the history of development and disturbance on-site and the surrounding urban environment, no natural sensitive habitats which would support endangered, threatened or special status plant or wildlife species are expected to occur on the site. For these reasons, the proposed mixed-use development and trail improvements would not have a substantial adverse effect on species identified as candidate, sensitive, or special status in local, or regional plans, policies, or regulations.

**(Less than Significant Impact)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is adjacent to a disturbed segment of Canoas Creek and is entirely surrounded by urban development.

City policies and regulations, including the Envision San José 2040 General Plan, the Zoning Code, and the City Council-adopted Habitat Plan include measures to limit development and protect sensitive riparian resources. Per the City's Riparian Corridor Protection and Bird Safe Design Council Policy (City Council Policy 6-34) all new buildings in urban areas, new residential buildings, and parking facilities should be situated at least 100 feet from the riparian corridor. The City Council-adopted Habitat Plan identifies a 35-foot setback for covered activities adjacent to Canoas Creek.

In February 2020, H.T. Harvey & Associates completed a Preliminary Identification of Riparian Setbacks to identify an appropriate riparian setback for the project that would comply with City and Habitat Plan requirements and that would be site-appropriate based on ecological conditions. This report concluded that due to the extent of existing development (the site is already paved, up to 15 feet from the top of bank along more than 1/3 the length of this segment of Canoas Creek), and low-quality riparian habitat on-site, the 35-foot setback would be the appropriate minimum setback between new building construction on the project site and Canoas Creek to maintain suitable riparian habitat functions and values.[25] For this reason, the City determined that the 100-foot setback is not applicable to the proposed project and no further discussion is provided.

The City considers the project to be a covered activity under the Habitat Plan. Based on the site plans, the proposed mixed-use and residential buildings, play structure, and seating would be located outside of the 35-foot riparian setback. The following improvements would be located within the 35-foot setback:

- Two trailhead plazas with permeable pavers and landscape trees
- A 10- to 12-foot-wide impermeable public pedestrian/bicycle trail
- Native landscape vegetation
- Bioretention areas and installation of storm drain perforated pipe
- 6-foot tall, perforated fence
- Repaving of parking areas, and re-striping of existing parking spaces

The effects of these improvements on the Canoas Creek riparian corridor were evaluated in a Biological Resources Assessment prepared by H.T. Harvey in January 2022 and are summarized below (refer to Appendix C for full Biological Resources Assessment).

On the project site (including the area of the proposed mixed-use development and trail improvements), all areas that fall within the 35-foot setback are currently developed as paved parking, non-native landscape vegetation, and pedestrian areas. Consistent with the Habitat Plan, existing improvements (i.e., existing paved areas) within the 35-foot setback are not required to be removed under the setback requirements and modifications to existing landscape within the setback

[25] H.T. Harvey & Associates, Inc. *Blossom Hill Station – Preliminary Identification of Riparian Setback.* February 7, 2020.

(i.e., re-paving and re-striping) do not require a setback exception.[26] The proposed trail, trailhead plazas, permeable pavers, native landscape vegetation, and bioretention areas within the 35-foot setback are currently developed as paved parking, nonnative landscape, pedestrian areas, or consist of agricultural areas with dense nonnative landscape and would, therefore, not encroach closer to the creek than baseline conditions. Furthermore, as discussed in Section 3.1 Aesthetics, existing lighting on the project site consists of pole-mounted parking lot lights, streetlights, and headlights from vehicles on surrounding roadways and entering and exiting the site. Due to the high existing levels of lighting on-site, implementation of the project (including the mixed-use development and trail improvements) would result in an incremental increase in nighttime lighting on the project site. For these reasons, these improvements would not substantially degrade the ecological function and values of the creek/riparian corridor and the proposed project (including the proposed mixed-use development and trail improvements) would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community.[27]

**(Less than Significant Impact)**

**c) Would the project have a substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means?**

The project site (including the area of the proposed mixed-use development and trail improvements) is surrounded by urban uses and is devoid of wetlands, marshes, and vernal pools. The project would not impact any federally protected wetlands under the Clean Water Act.

(**No Impact)**

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

Although the project site (including the area of the proposed mixed-use development and trail improvements) is adjacent to Canoas Creek, the site itself does not support a watercourse or provide habitat that facilitates the movement of any native resident or migratory fish or wildlife species. Therefore, the site has limited potential to serve as a migratory corridor for wildlife.

**Avian Collisions with New Buildings**

As shown in Figure 3.2-5 and Figure 3.2-8, the majority of the proposed building facades are composed of opaque wall panels broken up by smaller windows with no extensive glazing. However, design elements such as the proposed courtyard on Building A and the proposed landscaping adjacent to the western façade of Building B could increase potential for bird collisions. Birds may be attracted to the landscaping in the courtyard of Building A, increasing potential for collision with glazing on the surrounding building facades as they attempt to exit the courtyard. In addition, the

[26] Santa Clara Valley Habitat Agency. *Santa Clara Valley Habitat Plan Clarification and Interpretation, Subject: Condition 11 – Stream Setback Applicability.* October 13, 2021. Page 9.
[27] H.T. Harvey & Associates. *Blossom Hill Station Project - Updated Biological Resources Assessment.* January 27, 2022.

proposed landscaping adjacent to the west façade of Building B, facing Canoas Creek could attract birds moving along the creek, increasing the potential for collision with the glazing on the building façade. Some birds using the site are expected to collide with the proposed buildings, resulting in injury or death. However, the number and frequency of collisions would be low due to the predominantly opaque nature of the building facades. In addition, as noted in Section 3.4.1 Environmental Setting, the majority of bird species within the project area are urban-adapted species that are widespread through urban and suburban land uses in the San Francisco Bay Area and have a high regional population. Therefore, any bird collisions resulting from the proposed project would represent a very small portion of regional populations and would not represent a substantial portion of any species. For these reasons, the project would not substantially interfere with movement of native species due to avian collision with new buildings.

**Nesting Birds**

The trees on and adjacent to the project site could provide nesting habitat for birds, including migratory birds and raptors. Nesting birds are among the species protected under provisions of the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 2800. Development of the site during the nesting season (i.e., February 1 to August 31) could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by CDFW and USFWS. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute an impact. Construction activities such as site grading that disturb a nesting bird or raptor on-site or immediately adjacent to the project construction zone would also constitute an impact.

**Impact BIO-3:** Demolition, grading, construction activities, and tree removal during the nesting season could impact nearby migratory birds and raptors.

**Mitigation Measures:** The project would implement the following measures to avoid impacts to nesting migratory birds. With incorporation of these measures, the project would result in a less than significant impact.

**MM BIO-3.1:** Avoidance. The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

**MM BIO-3.2:** Nesting bird surveys. If demolition and construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

**MM BIO-3.3:** Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

**MM BIO-3.4:** Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or building permits.

Implementation of mitigation measures MM BIO-3.1 through MM BIO-3.4 would reduce potential impacts to migratory birds and raptors to a less than significant level.

**(Less Than Significant Impact with Mitigation Incorporated)**

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

The City of San José maintains the urban landscape by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). Ordinance trees are defined as trees exceeding 38 inches in circumference, or approximately 12 inches in diameter, at a height of 4.5 feet above the ground. Ordinance trees are generally mature trees that help beautify the City, slow the erosion of topsoil, minimize flood hazards, minimize the risk of landslides, increase property values, and improve local air quality.

As discussed above, there are 138 trees located on the project site. Of the 138 trees, 85 are ordinance-sized trees. The project would remove a total of 102 trees, including 77 ordinance size trees. The proposed project would be required to offset the impact to the urban forest through compliance with Standard Permit Conditions below.

Standard Permit Condition: The trees removed by the proposed project would be replaced according to tree replacement ratios required by the City as provided in Table 3.4-2 below.

| Table 3.4-2: Tree Replacement Requirements | | | | |
|---|---|---|---|---|
| **Diameter of Tree to be Removed[1]** | **Type of Tree to be Removed[2]** | | | **Minimum Size of Each Replacement Tree** |
| | **Native** | **Non-Native** | **Orchard** | |
| 12.1 inches or more[3] | 5:1 | 4:1 | 3:1 | 15-gallon container |
| 6.1 – 12.1 inches | 3:1 | 2:1 | None | 15-gallon container |
| Less than 6.1 inches | 1:1 | 1:1 | None | 15-gallon container |

[1] As measured 4.5 feet above ground level
[2] x:x = tree replacement to tree loss ratio
[3] Ordinance-sized trees
Notes: Trees greater than or equal to 12.1 inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree is 12.1 inches in diameter.
1 24-inch box tree = 2 15-gallon trees.

Of the 102 trees on-site that would be removed, 75 trees would be replaced at a ratio 4:1 ratio and 27 trees would be replaced at a 2:1 ratio. As mentioned previously, there are eight native trees on and adjacent to the project site (including the area of the proposed mixed-use development and trail improvements), however, none of these trees would be removed with the proposed project. The total number of replacement trees required to be planted would be 354 trees. The project proposes to plant 105 trees on-site, therefore 249 trees would need to be replaced according to the City's tree replacement policy. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

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

- The size of a 15-gallon replacement may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.

- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution. The City will use the following off-site tree replacement fee(s) to plant trees at alternative sites.

Through compliance with the Standard Permit Condition above, the project would offset the loss of the existing trees and reduce the impacts of tree removal to a less than significant level.

**(Less Than Significant Impact)**

**f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

The project will not be subject to any land cover fee given the current developed nature of the site and its designation as Urban-Suburban land in the Habitat Plan.

**Nitrogen Deposition Impacts on Serpentine Habitat**

All development covered by the Habitat Plan is required to pay a nitrogen deposition fee as mitigation for cumulative impacts to serpentine plants in the Habitat Plan area. Nitrogen deposition is known to have damaging effects on many of the serpentine plants in the Habitat Plan area, as well as the host plants that support the Bay checkerspot butterfly. All major remaining populations of the butterfly and many of the sensitive serpentine plant populations occur in areas subject to air pollution from vehicle exhaust and other sources throughout the Bay Area including the project area. Because serpentine soils tend to be nutrient poor, and nitrogen deposition artificially fertilizes serpentine soils, nitrogen deposition facilitates the spread of invasive plant species. The displacement of these species, and subsequent decline of the several federally listed species, including the butterfly and its larval host plants, has been documented on Coyote Ridge in central Santa Clara County.

Nitrogen tends to be efficiently recycled by the plants and microbes in infertile soils such as those derived from serpentine, so that fertilization impacts could persist for years and result in cumulative habitat degradation. The impacts of nitrogen deposition upon serpentine habitat and the Bay checkerspot butterfly can be correlated to the amount of new vehicle trips that a project is expected to generate. The nitrogen deposition fees collected under the Habitat Plan for new vehicle trips will be used as mitigation to purchase and manage conservation land for the Bay checkerspot butterfly and other sensitive species. The project would implement the following Standard Permit Condition.

Standard Permit Condition: The project shall implement the following condition to reduce the impacts related to nitrogen deposition:

> *Santa Clara Valley Habitat Plan.* The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

Compliance with the Standard Permit Condition listed above would ensure that the project does not conflict with the provisions of the Habitat Plan. The project would pay nitrogen deposition fees based on the trip generation associated with the proposed uses.

**(Less Than Significant Impact)**

### 3.4.2.2 *Cumulative Impacts*

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

The geographic area for cumulative biological resources impacts is limited to the project site and adjacent parcels.

As discussed above under checklist question a), the proposed project is located in an urban area, does not contain wetlands, marshes, vernal pools, and provides only low-quality riparian habitat adjacent to Canoas Creek; therefore, it would not result in impacts to special status species or sensitive natural communities. The cumulative project identified in Table 3.0 1 and future cumulative development projects would be required to comply with existing regulations (including the MBTA, Fish and Game Code, and CEQA) and would be subject to the Standard Permit Conditions identified in checklist question a), which are designed to avoid and/or minimize impacts to nesting migratory birds and raptors. As such, the project would not contribute to a cumulatively significant impact to nesting migratory birds and raptors.

As discussed under checklist question d), the project would have a less than significant impact on the movement of resident or migratory fish or wildlife species, including birds. Future cumulative projects would be subject to the bird-safe design requirements of City Council Policy 6-34, as would any future cumulative development within protected areas and as required by the Citywide Design Standards and Guidelines adopted in February 2021. Thus, the project would not contribute to a cumulatively significant impact on movement or migration of fish or wildlife species.

As discussed under checklist question b), the project site is adjacent to a disturbed segment of Canoas Creek and includes structures and improvements within the 35-foot setback. Both City Council Policy 6-34 and the Habitat Plan allow for exceptions to the identified riparian setbacks in certain circumstances, such as if consultation with the City and a qualified biologist indicates that a smaller or larger setback is more appropriate for consistency with riparian preservation objectives. The Biological Resources Assessment concluded that the proposed development within the 35-foot setback would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community. The project would comply with the City's Riparian Corridor Protection and the requirements of the Santa Clara Valley Habitat Plan, and therefore would not contribute to a cumulatively significant impact on these resources. Similarly, the project would comply with mitigation measures MM BIO-1.1 and MMs BIO-3.1 through BIO-3.4 and Standard Permit Conditions for tree replacement and nitrogen deposition. Future cumulative development projects would be required to comply with the City's tree replacement policy, Riparian Corridor Protection, Bird Safe Design Council Policy, and the requirements of the Santa Clara Valley Habitat Plan. Thus, the project would not contribute to a cumulative significant conflict with policies, ordinances, or plans protecting biological resources.

**(Less than Significant Cumulative Impact with Mitigation incorporated)**

## 3.5 CULTURAL RESOURCES

This discussion is based, in part on an Archaeological Literature Search prepared by *Holman & Associates* in February 2020 and tribal consultation with the Tamien Nation. The Archaeological Literature Search summary report is confidential in nature and can be viewed by registered archaeologists on a need-to-know basis, at the Department of Planning, Building and Code Enforcement in City Hall. Copies of the formal consultation letters with Tamien Nation are included as Appendix D to this EIR.

### 3.5.1 Environmental Setting

#### 3.5.1.1 *Regulatory Framework*

**Federal**

National Historic Preservation Act

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

Code of Federal Regulations Title 36, Part 800.5(a)

CFR Title 36, Part 800.5(a) describes procedures for evaluating a project's adverse effects on cultural resources for federal undertakings. An adverse effect is found when a federal undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Examples of adverse effects are provided in CFR Title 36, Part 800.5(a)(2) and include, but are not limited to, the following:

- Physical destruction of or damage to all or part of the property;
- Alteration of a property—including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access—that is not consistent with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines;
- Removal of the property from its historic location;
- Change of the character of the property's use, or of physical features within the property's setting, that contribute to its historic significance;
- Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features;
- Neglect of a property that causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to a Native American tribe or native Hawaiian organization; and

- Transfer, lease, or sale of property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.

**State**

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is administered by the State Office of Historic Preservation and encourages protection of resources of architectural, historical, archeological, and cultural significance. The CRHR identifies historic resources for State and local planning purposes and affords protections under CEQA. Under Public Resources Code Section 5024.1(c), a resource may be eligible for listing in the CRHR if it meets any of the NRHP criteria.[28]

Historical resources eligible for listing in the CRHR must meet the significance criteria described previously and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if it maintains the potential to yield significant scientific or historical information or specific data.

The concept of integrity is essential to identifying the important physical characteristics of historical resources and, therefore, in evaluating adverse changes to them. Integrity is defined as "the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The processes of determining integrity are similar for both the CRHR and NRHP and use the same seven variables or aspects to define integrity that are used to evaluate a resource's eligibility for listing. These seven characteristics include 1) location, 2) design, 3) setting, 4) materials, 5) workmanship, 6) feeling, and 7) association.

California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act applies to both State and private lands. The act requires that upon discovery of human remains, construction or excavation activity must cease, and the county coroner be notified.

Public Resources Code Sections 5097 and 5097.98

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These procedures are outlined in Public Resources Code Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

Pursuant to Public Resources Code Section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the county coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are of a Native American, the county coroner

[28] California Office of Historic Preservation. "CEQA Guidelines Section 15064.5(a)(3) and California Office of Historic Preservation Technical Assistance Series #6." March 14, 2006.

must notify the NAHC. The NAHC then notifies those persons most likely to be related to the Native American remains. The code section also stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

**Local**

Historic Preservation Ordinance

The City of San José Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) is designed to identify, protect, and encourage the preservation of significant resources and foster civic pride in the City's cultural resources. The Historic Preservation Ordinance requires the City to establish a Historic Landmarks Commission, maintain a Historic Resources Inventory, preserve historic properties using a Landmark Designation process, require Historic Preservation Permits for alterations of properties designated as a Landmark or within a City historic district, and provide financial incentives through a Mills Act Historical Property Contract.

Envision San José 2040 General Plan

Various policies in the City's 2040 General Plan have been adopted for the purpose of reducing or avoiding impacts related to cultural resources. The following are applicable to the project.
The following cultural-resources-related General Plan policies are applicable to the proposed project.

**General Plan Cultural Resources Policies**

| Policy | Description |
|---|---|
| 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. |
| 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. |

### 3.5.1.2 *Existing Conditions*

**Archaeological Resources**

A record search at the Northwest Information Center of the California Historical Resources Information System (CHRIS) was conducted for the project site by *Holman & Associates* on August 29, 2019. The research was completed to identify known archaeological resources on the project site and in the immediate vicinity. The literature search revealed no recorded cultural resources within the project site or immediate vicinity. Nonetheless, in San José, Native American sites have been identified within a half mile of the two major waterways: Coyote Creek and Guadalupe River and their tributaries (mainly Canoas, Silver, and Los Gatos Creeks). Based on the proximity of the project site to Canoas Creek, the site is anticipated to have moderate to high sensitivity for prehistoric cultural resources.

**Historic Resources**

The project site is mostly paved and is developed with a bus stop, light rail station and associated parking. The current parking lot and transit stops were constructed around 1998 and do not meet the 50-year age requirement for preparation of a Historic Resources Assessment. Based on the literature review, no historic resources or properties listed on federal, State, or local inventories were identified on or adjacent to the project site. The nearest historic resource to the project site is Cottle Ranch, located at 5285 Snell Avenue, approximately 4,000 feet from the project site, which is listed on the City of San José Historic Resources Inventory.

## 3.5.2 Impact Discussion

For the purpose of determining the significance of the project's impact on cultural resources, would the project:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
c) Disturb any human remains, including those interred outside of dedicated cemeteries?

### 3.5.2.1 *Project Impacts*

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

As discussed above, the project site (including the area of the proposed mixed-use development and trail improvements) is developed with a bus stop, light rail station and associated parking that was constructed around 1998. No historic resources or properties listed on federal, State, or local inventories were identified on the project site or adjacent properties.[29] The project would not, therefore, result in a substantial adverse change in the significance of a historical resource and impacts would be less than significant.

**(Less than Significant Impact)**

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

As noted above, no previously recorded archaeological resources were identified on the project site or adjacent properties; however, the site is located within an area with moderate to high archaeological sensitivity. Therefore, it is possible that cultural resources could be encountered during project grading and excavation. For this reason, impacts to archaeological resources would be significant.

[29] Holman & Associates, Inc. Cultural Resources Evaluation Report for Blossom Hill Station Mixed Use Project. February 2020.

**Impact CUL-1:** Ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources.

**Mitigation Measures**: Implementation of the mitigation measures below would reduce potential impacts to previously undiscovered archaeological resources to a less than significant level.

**MM CUL-1.1:** Prior to issuance of any Grading Permits, the project applicant shall submit evidence to the Director of Planning, Building and Code Enforcement or the Director's designee that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative from a California Native American tribe that has consulted on the project, is registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

**MM CUL-1-2:** Prior to the issuance of any demolition or ground disturbance permits, the project applicant shall retain a qualified archaeologist to perform an extended Phase I Archaeological investigation of the project site including mechanical subsurface exploration. Subsurface exploration shall be conducted using either a backhoe or truck-mounted coring rig depending on the project restrictions. Subsurface soils samples shall be analyzed by a qualified archaeologist to determine the potential for buried cultural resources within the project site.

**MM CUL-1.3:** If any archaeological resources are exposed, then a research design and treatment plan shall be prepared by a qualified archaeologist that is tailored to the kind(s) of resources identified. Once the research design and treatment plan is approved by the Director of Planning, Building and Code Enforcement or the Director's designee, testing can begin. Testing shall be commensurate with the level of proposed impacts. After field testing, an evaluation report shall be prepared documenting the field work, analyzing the cultural materials recovered, defining the resource boundaries within the current project area of potential effect, and evaluating the resource to both the National Register of Historic Places and the California Register of Historic Resources. A Native American monitor is required during archaeological testing of any Native American resources. Once all of the steps outlined above have been completed, the project will be in compliance with Section 106 and CEQA.

**MM CUL**-1.4: Prior to the issuance of any grading permits, the project applicant shall engage a Native American monitor registered with the NAHC to be present at the project site during all demolition and ground disturbance activities. Submit a copy of the agreement to the Director of Planning, Building and Code Enforcement or the Director's designee.

In addition to the project specific mitigations described above, consistent with City policies, the proposed project would be required to implement the Standard Permit Conditions listed below to further minimize impacts to undiscovered cultural resources.

Standard Permit Conditions: Implementing the following conditions would reduce impacts of the project on subsurface cultural resources:

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

With implementation of the Standard Permit Conditions detailed above, the proposed project would have a less than significant impact to as yet unrecorded archaeological resources.

**(Less than Significant Impact with Mitigation Incorporated)**

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

As noted above, the site (including the area of the proposed mixed-use development and trail improvements) is located within an area with moderate to high archaeological sensitivity. Because the project is within an archaeologically sensitive area for prehistoric occupation near historic waterways, it is possible that Native American human remains could be located in the area. Excavation of the site could uncover as yet unrecorded burials.

Standard Permit Conditions: Consistent with the City's General Plan Policy ER-10.2, the following Standard Permit Condition is included in the project to reduce or avoid impacts to subsurface cultural resources.

- **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area

reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

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

With implementation of the Standard Permit Conditions detailed above and Mitigation Measures CUL-1.1, CUL-1.2, CUL-1.3 and CUL-1.4, the proposed project would have a less than significant impact to as yet unrecorded archaeological resources.

**(Less than Significant Impact with Mitigation Incorporated)**

#### 3.5.2.2 *Cumulative Impacts*

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

The geographic area for cumulative cultural resources impacts is limited to the project site and adjacent developments along Canoas Creek where archaeological resource potential is also high. As discussed under checklist question a), the project would have no impact on historic resources; as such, the project would not contribute to a cumulatively significant impact to historic resources. Current and future cumulative projects may include construction activities (excavation, grading, etc.) that could encounter undiscovered subsurface archaeological resources or human remains. All cumulative projects would be subject to federal, state, and local regulations protecting archaeological resources and human remains (refer to Section 3.5.1.1 Regulatory Framework), as well as the Standard Permit Conditions identified under Cultural Resources checklist questions b) and c). As a result, the project would not contribute to a cumulatively significant impact on archaeological resources or human remains.

**(Less than Significant Cumulative Impact)**

## 3.6 ENERGY

The discussion in this section is based in part on a project-specific Air Quality and GHG Assessment prepared by Illingworth & Rodkin, Inc. in November 2020 and revised January 2022. This report is attached to this Draft EIR as Appendix B.

### 3.6.1 Environmental Setting

#### 3.6.1.1 *Regulatory Framework*

**Federal and State**

Energy Star and Fuel Efficiency

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

Renewables Portfolio Standard Program

In 2002, California established its Renewables Portfolio Standard Program, with the goal of increasing the percentage of renewable energy in the state's electricity mix to 20 percent of retail sales by 2010. Governor Schwarzenegger issued Executive Order (EO) S-3-05, requiring statewide emissions reductions to 80 percent below 1990 levels by 2050. In 2008, EO S-14-08 was signed into law, requiring retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. In October 2015, Governor Brown signed SB 350 to codify California's climate and clean energy goals. A key provision of SB 350 requires retail sellers and publicly owned utilities to procure 50 percent of their electricity from renewable sources by 2030. SB 100, passed in 2018, requires 100 percent of electricity in California to be provided by 100 percent renewable and carbon-free sources by 2045.

Executive Order B-55-18 To Achieve Carbon Neutrality

In September 2018, Governor Brown issued an executive order, EO-B-55-18 To Achieve Carbon Neutrality, setting a statewide goal "to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter." The executive order requires CARB to "ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal." EO-B-55-18 supplements EO S-3-05 by requiring not only emissions reductions, but also that, by no later than 2045, the remaining emissions be offset by equivalent net removals of $CO_2$ from the atmosphere through sequestration.

California Building Standards Code

The Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6 of the California Code of Regulations (Title 24), was established in 1978 in response to a legislative mandate to reduce California's energy consumption. Title 24 is updated approximately

every three years.[30] Compliance with Title 24 is mandatory at the time new building permits are issued by city and county governments.[31]

California Green Building Standards Code

CALGreen establishes mandatory green building standards for buildings in California. CALGreen was developed to reduce GHG emissions from buildings, promote environmentally responsible and healthier places to live and work, reduce energy and water consumption, and respond to state environmental directives. CALGreen covers five categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.

Advanced Clean Cars Program

CARB adopted the Advanced Clean Cars program in 2012 in coordination with the EPA and National Highway Traffic Safety Administration. The program combines the control of smog-causing pollutants and GHG emissions into a single coordinated set of requirements for vehicle model years 2015 through 2025. The program promotes development of environmentally superior passenger cars and other vehicles, as well as saving the consumer money through fuel savings.[32]

**Regional and Local**

Climate Smart San José

Climate Smart San José is a plan to reduce air pollution, save water, and create a stronger and healthier community. The City approved goals and milestones in February 2018 to ensure the City can substantially reduce GHG emissions through reaching the following goals and milestones:

- All new residential buildings will be Zero Net Energy ZNE by 2020 and all new commercial buildings will be ZNE by 2030 (Note that ZNE buildings would be all electric with a carbon-free electricity source).
- San José Clean Energy (SJCE) will provide 100-percent carbon-free base power by 2021.
- One gigawatt of solar power will be installed in San Jose by 2040.
- 61 percent of passenger vehicles will be powered by electricity by 2030.

### 3.6.1.2 *Existing Conditions*

Total energy usage in California was approximately 7,881 trillion British thermal units (Btu) in the year 2017, the most recent year for which this data was available.[33] Out of the 50 states, California is

[30] California Building Standards Commission. "California Building Standards Code." Accessed November 16, 2020. https://www.dgs.ca.gov/BSC/Codes#@ViewBag.JumpTo.
[31] California Energy Commission (CEC). "2019 Building Energy Efficiency Standards." Accessed November 16, 2020. https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency.
[32] California Air Resources Board. "The Advanced Clean Cars Program." Accessed November 16, 2020. https://www.arb.ca.gov/msprog/acc/acc.htm.
[33] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed August 31, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.

ranked second in total energy consumption and 48th in energy consumption per capita. The breakdown by sector was approximately 18 percent (1,416 trillion Btu) for residential uses, 19 percent (1,473 trillion Btu) for commercial uses, 23 percent (1,818 trillion Btu) for industrial uses, and 40 percent (3,175 trillion Btu) for transportation.[34] This energy is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

### Electricity

Electricity in Santa Clara County in 2018 was consumed primarily by the commercial sector (77 percent), followed by the residential sector consuming 23 percent. In 2018, a total of approximately 16,668 gigawatt hours (GWh) of electricity was consumed in Santa Clara County.[35]

San José Clean Energy (SJCE) is the electricity provider for residents and businesses in the City of San José. SJCE sources the electricity and the Pacific Gas and Electric Company (PG&E) delivers it to customers over their existing utility lines. SJCE customers are automatically enrolled in the GreenSource program, which provides 80 percent GHG emission-free electricity. Customers can choose to enroll in SJCE's TotalGreen program at any time to receive 100 percent GHG emission-free electricity form entirely renewable sources.

### Natural Gas

PG&E provides natural gas services within San José. In 2018, approximately one percent of California's natural gas supply came from in-state production, while the remaining supply was imported from other western states and Canada.[36] In 2018, residential and commercial customers in California used 34 percent of the state's natural gas, power plants used 35 percent, the industrial sector used 21 percent, and other uses used 10 percent. Transportation accounted for one percent of natural gas use in California. In 2018, Santa Clara County used approximately 3.5 percent of the state's total consumption of natural gas.[37]

### Fuel for Motor Vehicles

In 2018, 15.5 billion gallons of gasoline were sold in California.[38] The average fuel economy for light-duty vehicles (autos, pickups, vans, and sport utility vehicles) in the United States has steadily increased from about 13.1 miles per gallon (mpg) in the mid-1970s to 24.9 mpg in 2018.[39] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of

[34] United States Energy Information Administration. "State Profile and Energy Estimates, 2017." Accessed November 16, 2020. https://www.eia.gov/state/?sid=CA#tabs-2.
[35] California Energy Commission. Energy Consumption Data Management System. "Electricity Consumption by County." Accessed November 16, 2020. http://ecdms.energy.ca.gov/elecbycounty.aspx.
[36] California Gas and Electric Utilities. 2019 *California Gas Report.* Accessed November 16, 2020. https://www.socalgas.com/regulatory/documents/cgr/2019_CGR_Supplement_7-1-19.pdf.
[37] California Energy Commission. "Natural Gas Consumption by County." Accessed November 16, 2020. http://ecdms.energy.ca.gov/gasbycounty.aspx.
[38] California Department of Tax and Fee Administration. "Net Taxable Gasoline Gallons." Accessed November 16, 2020. https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=VehicleTaxableFuelDist.
[39] United States Environmental Protection Agency. "The 2018 EPA Automotive Trends Report: Greenhouse Gas Emissions, Fuel Economy, and Technology since 1975." March 2019.

35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks model years 2011 through 2020. [40,41]

**Existing On-Site Energy Use**

The project site includes existing surface parking lot, bus stop, and transit station entrance. On-site energy use includes electricity for lighting and gasoline for vehicles traveling to and from the site to access the transit station and bus stop. The transit station and bus stop would remain in operation during project construction and operation and no reduction in ridership is anticipated to result from the project. Therefore, existing energy use was not factored into this analysis.

### 3.6.2 Impact Discussion

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

a) Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?
c) Result in a substantial increase in demand upon energy resources in relation to projected supplies?

#### 3.6.2.1 *Project Impacts*

| |
|---|
| **a) Would the project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?** |
| **b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?** |

The following discussion responds to both checklist questions a and b.

**Energy Use During Construction**

Energy is consumed during construction from demolition, site preparation, grading and excavation, trenching, and paving; however, the project (including the mixed-use development and off-site trail improvements) would not waste or use energy inefficiently. The total project construction period would be approximately 33 months, estimated to start in July of 2022 and finish in April of 2025. The exact timing and length of construction activities associated with the proposed off-site trail improvements was not known at the time of this analysis. Construction processes are generally designed to be efficient in order to avoid excess monetary costs. That is, equipment and fuel are not typically used wastefully on the site because of the added expense associated with renting the equipment, as well as maintenance and fuel. Project development in urbanized areas with proximity to roadways, construction supplies, and workers is already more efficient than construction occurring

[40] United States Department of Energy. *Energy Independence & Security Act of 2007.* Accessed September 16, 2020. http://www.afdc.energy.gov/laws/eisa.
[41] Public Law 110–140—December 19, 2007. *Energy Independence & Security Act of 2007.* Accessed September 16, 2020. http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf.

in outlying undeveloped areas. In addition, the project includes several measures that would improve the efficiency of the construction process. The proposed project would participate in the City's recycle construction and demolition materials program, restrict equipment idling times to five minutes or less and require the applicant to post signs on the project site reminding workers to shut off idle equipment (see Standard Permit Conditions under Air Quality criterion c). For these reasons, impacts would be less than significant.

**Operational Energy Use**

Operation of the project (including the mixed-use development and trail improvements) would consume energy for multiple purposes, including building heating and cooling, lighting, and appliance use. Operational energy would also be consumed by resident, employee, customer, and trail user vehicle use to and from the project site. The net increase in energy use of the proposed project is summarized in Table 3.6-1 below.

**Table 3.6-1: Estimated Annual Energy Use of Proposed Project**

| | Electricity (kWh) | Natural Gas (kBtu) | Gasoline (gallons) |
|---|---|---|---|
| **Proposed Uses** | 975,332 | 53,559 | 210,706 |

Note: the estimated gasoline demand is based on the estimated VMT of 5,246,575 for the project, and an average fuel economy of 24.9 mpg.

kWh = kilowatt per hour

kBtu = kilo-British thermal unit

Source: Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Air Quality & Greenhouse Gas Assessment.* November 10, 2020, revised January 28, 2022; and Hexagon Transportation Consultants. *Blossom Hill Station TOD Transportation Analysis.* October 21, 2020.

As shown in Table 3.6-1 above, the project would result in an increase in energy demand compared to existing conditions. The project, however, would not represent a wasteful or inefficient use of energy resources because the project would be required to comply with Title 24 and CALGreen requirements to reduce energy consumption. City Council Policy 6-32 requires LEED certification for all high-rise residential buildings of 75 feet or higher. As noted in Section 2.2 above, Building A would be built to achieve LEED Silver certification consistent with Council Policy 6-32. The project would be required to prepare and implement a Transit Demand Management (TDM) plan to reduce project VMT below the City threshold for residential projects. The TDM plan would incentivize the use of alternative methods of transportation to and from the site, which would reduce the project's gasoline demand. Additionally, the proposed trail improvements would improve bicycle and pedestrian connectivity between the Blossom Hill light rail station, Martial Cottle Park, and the surrounding residential neighborhoods, further reducing gasoline demand. For these reasons, the project would not result in a wasteful use of energy or conflict with a state or local plan for renewable energy or energy efficiency and impacts would be less than significant.

**(Less than Significant Impact)**

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

The project would be built to the most recent CALGreen requirements, Title 24 energy efficiency standards, and to meet LEED Silver standards, which would improve the efficiency of the overall project. Due to population increases, it is estimated that future demand in California (for electricity) will increase by approximately one percent each year through 2027. Efficiency and production capabilities would help meet increased electricity demand in the future, such as improving energy efficiency in existing and future buildings, establishing energy efficiency targets, inclusion of microgrids and zero-net energy buildings, and integrating renewable technologies.[42] As a result, the project's increase in electricity use would not result in a significant increase in demand on electrical energy resources in relation to projected supplies statewide.

In 2019, California consumed approximately 2.1 billion MBtu of natural gas.[43] Based on the relatively small increase in natural gas demand (approximately 53,559 kBtu annually) compared to the growing trends in natural gas supply and the existing available supply in California, the proposed project would not result in a substantial increase in natural gas demand relative to projected supply.

Project trips would increase gasoline use by 210,706 gallons per year compared to existing conditions. This increase is small when compared to the 15 billion gallons of gasoline consumed in California in 2017. The project's gasoline use would be reduced given its proximity to existing transit and implementation of a TDM plan as required in MM TRA-1. The following measures would be included in the project's TDM plan to reduce vehicular gasoline use:

- School Pool Program: The purpose of this program would be to match parents of the proposed residential development who transport students to schools without a bussing program, including private schools, charter schools, and neighborhood schools where students cannot walk or bike. The school pool program would be open to all families of the development and it is estimated that half of the families with school-aged children would likely participate in the carpool program. School pools reduce the total number of vehicle trips traveling to and from schools, thereby reducing VMT.
- Subsidized Transit Program: The project shall provide two fully subsidized transit passes per residential unit annually for the life of the project. Subsidized transit passes are an effective means of encouraging residents to use transit rather than drive.
- Voluntary Travel Behavior Change and Program: The project shall provide a program that targets individual attitudes toward travel and provides information and tools for residents to analyze and alter their travel behavior including but not limited to mass communication campaigns and travel feedback programs, such as travel diaries or feedback on calories burned from alternative modes of travel.

For these reasons, the project would not result in a substantial increase in demand upon energy resources in relation to projected supplies.
**(Less than Significant Impact)**

[42] California Energy Commission. "2016 Integrated Energy Policy Report." Accessed February 26, 2020. https://www.eia.gov/dnav/ng/ng_cons_sum_dcu_SCA_a.htm
[43] United States Energy Information Administration. "Natural Gas Consumption by End Use." Accessed April 8, 2020. https://www.eia.gov/dnav/ng/ng_cons_sum_dcu_SCA_a.htm

#### 3.6.2.2 *Cumulative Impacts*

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

By its nature, energy is a cumulative resource. The geographic area for cumulative energy impacts incudes the proposed project and approved/future projects served by SJCE and PG&E within the State of California. Past, present, and future development projects contribute to the state's energy impacts. If the project is determined to have a significant energy impact, it can be concluded that the impact is cumulatively considerable. However, as discussed under checklist question a) and b) above, the project would comply with CALGreen, Title 24 requirements, and LEED Silver standards and would not result in a significant energy impact. Therefore, the project would not have a cumulatively considerable contribution to a significant cumulative energy impact.

**(Less than Significant Cumulative Impact)**

## 3.7 GEOLOGY AND SOILS

### 3.7.1 Environmental Setting

#### 3.7.1.1 *Regulatory Framework*

**State**

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning Act was passed following the 1971 San Fernando earthquake. The act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Alquist-Priolo maps are distributed to affected cities, counties, and State agencies for their use in planning and controlling new construction. Areas within an Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 following the 1989 Loma Prieta earthquake. The SHMA directs the California Geological Survey (CGS) to identify and map areas prone to liquefaction, earthquake-induced landslides, and amplified ground shaking. CGS has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, landslides, and ground shaking, including the central San Francisco Bay Area. The SHMA requires that agencies only approve projects in seismic hazard zones following site-specific geotechnical investigations to determine if the seismic hazard is present and identify measures to reduce earthquake-related hazards.

California Building Standards Code

The CBC prescribes standards for constructing safe buildings. The CBC contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, ground strength, and distance to seismic sources. The CBC requires that a site-specific geotechnical investigation report be prepared for most development projects to evaluate seismic and geologic conditions such as surface fault ruptures, ground shaking, liquefaction, differential settlement, lateral spreading, expansive soils, and slope stability. The CBC is updated every three years.

California Division of Occupational Safety and Health Regulations

Excavation, shoring, and trenching activities during construction are subject to occupational safety standards for stabilization by the California Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA) under Title 8 of the California Code of Regulations and Excavation Rules. These regulations minimize the potential for instability and collapse that could injure construction workers on the site.

Public Resources Code Section 5097.5

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. They range from mammoth and dinosaur bones to impressions of ancient

animals and plants, trace remains, and microfossils. These are valued for the information they yield about the history of the earth and its past ecological settings. California Public Resources Code Section 5097.5 specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it would disturb or destroy a unique paleontological resource or site or unique geologic feature.

### Local

Envision San José 2040 General Plan

The proposed project would be subject to the geology and soil policies listed in the City's General Plan, including the following:

**Envision San José 2040 General Plan Relevant Geology and Soil Policies**

| Policy | Description |
|---|---|
| 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. |
| 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. |
| EC-4.2 | Approve 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. |
| EC-4.4 | Require all new development to conform to the City of San José's Geologic Hazard Ordinance. |
| 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. |
| 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. |
| 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. |
| ES-4.9 | Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level. |

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. 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.

### 3.7.1.2 *Existing Conditions*

The City of San José is located within the Santa Clara Valley, which is a broad alluvial plain between the Santa Cruz Mountains to the southwest and west, and the Diablo Range to the northeast. The San Andreas Fault system, including the Monte Vista-Shannon Fault, exists within the Santa Cruz Mountains and the Hayward and Calaveras Fault systems existing within the Diablo Range.

#### Soils and Topography

The project site has an elevation of approximately 159 feet above mean sea level (amsl) and is comprised of surface soils approximately 94 percent of which are classified as Urban land-Hangerone complex and six percent Urban land-Clear Lake complex, with zero to two percent slopes.[44, 45] Urban land is comprised of disturbed and human transported material. The Hangerone soil at the site are mostly comprised of clay from the surface to approximately three feet bgs, underlain by fine clay loam and gravelly loam to six feet bgs.[46]

Expansive near-surface soil is subject to volume changes during seasonal fluctuations in moisture content, which may cause movement and cracking of foundations, pavements, slabs and below-grade walls. On-site soils have a moderate expansion potential.[47] Based on the Santa Clara County Geologic Hazard Zones Map and the site's flat topography, the project site is not located within a landslide hazard zone.[48]

#### Groundwater

The groundwater level at the site is estimated to be less than 20 feet bgs based on the proximity to Canoas Creek.[49]

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[44] Arcadis. *Phase I Environmental Site Assessment Report, VTA – Blossom Hill Parking Lot (Parcel 32) Blossom Hill Road and State Route 85 San José, California.* April 18, 2018.
[45] United States Department of Agriculture. Web Soil Survey. Accessed: September 16, 2020. https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx; *Phase I Environmental Site Assessment Report, VTA – Blossom Hill Parking Lot (Parcel 32) Blossom Hill Road and State Route 85 San José, California.* April 18, 2018.
[46] Ibid.
[47] Ibid.
[48] County of Santa Clara, Department of Planning. Santa Clara County Geologic Hazard Zones. Map 35. October 2012. https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf. Accessed September 16, 2020.
[49] Arcadis. *Phase I Environmental Site Assessment Report, VTA – Blossom Hill Parking Lot (Parcel 32) Blossom Hill Road and State Route 85 San José, California.* April 18, 2018.

### Seismicity and Seismic Hazards

The San Francisco Bay Area is classified as Zone 4 for seismic activity, the most seismically active region in the United States. Based on a 2015 forecast completed by the United States Geological Survey (USGS), there is a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years.[50]

The project site is not located in an Alquist-Priolo Earthquake Fault Zone.[51] There are no known active faults that traverse the site and, therefore, the potential for fault rupture is very low. The San José fault, an inactive quaternary fault[52] is located adjacent to the project site running parallel to SR 85. The known major active faults near the project site include the Monte-Vista Shannon Fault approximately 2.6 miles southwest, the San Andreas Fault approximately 10 miles west, the Hayward Fault approximately 16 miles east, and the Calaveras Fault approximately 5 miles east of the project site.[53]

### Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose water-saturated soils from a solid state to a liquid state during ground shaking. During ground shaking, such as during earthquakes, cyclically induced stresses may cause increased pore water pressures within soil voids, resulting in liquefaction. Liquefied soils may lose shear strength that may lead to large shear deformations and/or flow failure under moderate to high shear stresses, such as beneath foundations or sloping ground. Soils most susceptible to liquefaction are loose, non-cohesive soils that are saturated and are bedded with poor drainage, such as sand and silt layers bedded with a cohesive cap. The project site is located within a State-designated liquefaction hazard zone.[54]

### 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 or "free" face such as an open body of water, channel, or excavation. According to the Envision San José General Plan EIR, areas of San José most prone to lateral spreading include lands adjacent to creeks or streams which liquefaction probability is greatest. The nearest waterway to the project site is Canoas Creek, adjacent to the site approximately 20 feet to the west. As noted above, the project site is located within a state-designated liquefaction hazard zone. For these reasons, the potential for lateral spreading is high.

### Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments from in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have

[50] United States Geological Survey. *Earthquake Outlook for the San Francisco Bay Region 2014-2043.* Revised August 2016. Accessed September 16, 2020. Available at: https://pubs.usgs.gov/fs/2016/3020/fs20163020.pdf.
[51] California Department of Conservation. CGS Information Warehouse: Regulatory Maps. Accessed: September 16, 2020. Available at http://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=regulatorymaps.
[52] United States Geological Survey. "What is a 'Quaternary' fault?." Accessed December 23, 2020. https://www.usgs.gov/faqs/what-a-quaternary-fault?qt-news_science_products=0#qt-news_science_products
[53] California Geological Survey, Geologic Data Map No. 6, 605 Blossom Hill Road, San José, California. 2010. Accessed: September 16, 2020. Available at: https://maps.conservation.ca.gov/cgs/fam/
[54] State of California Seismic Hazard Zones. San José East Quadrangle. 2018. Available at: file:///C:/Users/cneer/Downloads/CA_San_José_East_20180905_TM_geo.pdf. Accessed September 16, 2020.

a low potential to contain significant nonrenewable paleontological resources; however, Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These sediments have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The Envision San José 2040 General Plan EIR found the project site to have a high sensitivity at the depth for paleontological resources.[55]

### 3.7.2 Impact Discussion

For the purpose of determining the significance of the project's impact on geology and soils, would the project:

a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
   - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?
   - Strong seismic ground shaking?
   - Seismic-related ground failure, including liquefaction?
   - Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

d) Be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?

#### 3.7.2.1 *Project Impacts*

**a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; or landslides?**

**Fault Rupture**

The project site (including the area of the proposed mixed-use development and trail improvements) is not located within an Alquist-Priolo Earthquake Fault Zone. The San José fault, which transects the project site is not considered an active fault. No known surface expression of active faults is

[55] City of San José, *Final Programmatic EIR for Envision San José 2040 General Plan*, November 2011.

known to cross the site. Therefore, the potential for fault rupture to occur at the site is low. Additionally, the proposed project would not exacerbate ground surface rupture in the project area. Therefore, there would be no CEQA impact associated with ground surface rupture.

**(Less than Significant)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is developed and generally level, which limits the potential for substantial soil erosion. Potential for erosion is highest during the grading and excavation phase. Ground-disturbing activities would include site-specific grading for foundations, access driveways, and utility trenches. Temporary erosion could occur during project construction. However, the project would be required to comply with SJMC Chapter 17.04, which requires a grading permit prior to ground-disturbing activities and calls for protection of slopes and the use of erosion and sediment controls on construction sites as necessary to protect water quality. Additionally, the project would implement the following conditions to reduce erosion and the loss of topsoil:

Standard Permit Condition:

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

Furthermore, the General Plan EIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. Because the project would comply with the regulations identified in the General Plan EIR and adhere to the Standard Permit Conditions above, implementation of the proposed project would not have a significant soil erosion impact.

**(Less than Significant Impact)**

**c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?**

**Seismic Ground Shaking**

The project site (including the area of the proposed mixed-use development and trail improvements) is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years. Earthquake faults in the region, specifically the San Andreas and Hayward faults, are capable of generating earthquakes larger than 7.0 in magnitude. The project site (including the area of the proposed mixed-use development and trail improvements) would experience intense ground shaking in the event of a large earthquake.

In accordance with the City's General plan and Municipal Code the project shall implement the following Standard Permit Condition as a condition of approval for the project.

Standard Permit Condition: To reduce impacts at the project site and adjacent properties, the project shall be subject to the following Standard Permit Condition.

- The project site is within the State of California Seismic Hazard Zone of Required Investigation for Liquefaction. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist prior to the issuance of a grading permit. This report should include, but is not limited to foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The geotechnical investigation report shall be reviewed and approved by the Department of Public Works as part of the building permit review and entitlement process.

- A design level geotechnical corrective plan must be set to be approved for a grading permit, if ground improvements to mitigate settlement, liquefaction, landslides, or other geologic hazards are recommended in the geotechnical report submitted for the project.

- To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will be completed in conformance with the recommendations of a design-level geotechnical investigation. The structural designs for the proposed development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and entitlement process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk of life or property on-site and off-site to the extent feasible and in compliance with the Building Code.

With implementation of the above Standard Permit Condition, the proposed project would not expose people or structures to substantial adverse effects due to ground shaking; nor would the project exacerbate existing geological hazards on the project site such that it would impact (or worsen) off-site geological and soil conditions. For these reasons, there would be no CEQA impact.

**Liquefaction**

The project site (including the area of the proposed mixed-use development and trail improvements) is located within a State-designated Liquefaction Hazard Zone. Therefore, the site is susceptible to liquefaction and liquefaction induced differential settlement during seismic events. The proposed project would not modify groundwater levels or otherwise exacerbate the existing risk of liquefaction. For these reasons, there would be no CEQA impact associated with liquefaction.

Implementation of the above Standard Permit Condition would address the effect of liquefaction on the project.

### Lateral Spreading

The nearest creek to the site is Canoas Creek, which is located approximately 20 feet west of the site. The site is located within a state-designated liquefaction hazard zone. For these reasons, the site is susceptible to lateral spreading. However, with implementation of the above Standard Permit Condition, impacts related to lateral spreading would be reduced to less than significant levels.

### Landslides

The project site (including the area of the proposed mixed-use development and trail improvements) is not located within a landslide hazard zone. The project site (including the area of the proposed mixed-use development and trail improvements) is relatively flat and is not located in the vicinity of any slope that could be affected by a landslide.

**(Less than Significant Impact)**

**d) Would the project be located on expansive soil, as defined in the current California Building Code, creating substantial direct or indirect risks to life or property?**

As noted above, soils on-site are moderately expansive.[56] The project would not increase the potential for expansive soils. Therefore, there would be no CEQA impact. Standard Permit Conditions discussed above would be incorporated to address the effect of expansive soil on the project.

**(Less than Significant Impact)**

**e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

Although the existing surface parking lot is not currently connected to the City's sewer system, such a connection is possible at the site under existing conditions. The existing utility lines in the project area would serve the proposed new buildings. By connecting to existing City sewer lines, the project would avoid potential impacts related to wastewater disposal via an on-site septic system or alternative wastewater disposal system and there would be no impact.

**(No Impact)**

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

[56] United States Department of Agriculture. "Web Soil Survey." Accessed September16, 2020. Available at https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx.

Most of the City of San José is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources. However, older Pleistocene sediments present at or near the ground surface at some locations have a higher potential to contain resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. As noted in Section 2.2.7 above, the maximum depth of excavation required for the project would be 17 feet bgs. At this depth, the proposed project could potentially disturb undiscovered paleontological resources underlying the project site during excavation, grading and construction activities.

The Envision San José 2040 General Plan EIR recognized that while development allowed under the General Plan could directly impact paleontological resources, implementation of General Plan policies and existing regulations and programs would reduce potential impacts to a less than significant level. The following Standard Permit Conditions would be applied to the proposed project to reduce and avoid impacts to as yet unidentified paleontological resources.

Standard Permit Condition:

- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning Building and Code Enforcement (PCBE) or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

Implementation of the Standard Permit Conditions discussed above would reduce impacts to paleontological resources to a less than significant level.

**(Less than Significant Impact)**

#### 3.7.2.2 *Cumulative Impacts*

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

The geographic study area for cumulative impacts to geological resources is the project site and adjacent parcels. Future cumulative development within the geographic study area would face similar, if not identical, geology and soils related hazards. No future cumulative development would be within an Alquist-Priolo Fault Zone. Future cumulative development would be constructed in accordance with the CBC and the City's General Plan and Municipal Code, and would be subject to the same Standard Permit Conditions identified under Geology and Soils checklist questions b) and c). As such, cumulative development would not result in adverse effects due to seismic-induced ground failure, soil erosion or loss of topsoil, or site destabilization, and the proposed project would not contribute to a cumulative significant impact in these areas.

The project would have no impact related to the use of septic tanks or alternative wastewater disposal systems and, therefore, would have no cumulative impact. Future cumulative development would also be subject to the Standard Permit Condition identified under Geology and Soils checklist question f), thus protecting any undiscovered subsurface paleontological resources or unique geological features on these sites and ensuring that the project would not contribute to a cumulatively significant impact to these resources. With implementation of Standard Permit Conditions, the project would have a less than significant cumulative geology and soils impact.

**(Less than Significant Cumulative Impact)**

## 3.8 GREENHOUSE GAS EMISSIONS

The discussion in this section is based in part on a project-specific Air Quality and GHG Assessment prepared by *Illingworth & Rodkin, Inc.* in November 2020 and revised January 2022. This report is attached to this checklist as Appendix B.

### 3.8.1 Environmental Setting

#### 3.8.1.1 *Background Information*

Gases that trap heat in the atmosphere, GHGs, regulate the earth's temperature. This phenomenon, known as the greenhouse effect, is responsible for maintaining a habitable climate. In GHG emission inventories, the weight of each gas is multiplied by its global warming potential (GWP) and is measured in units of $CO_2$ equivalents ($CO_2e$). The most common GHGs are carbon dioxide ($CO_2$) and water vapor but there are also several others, most importantly methane ($CH_4$), nitrous oxide ($N_2O$), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride ($SF_6$). These are released into the earth's atmosphere through a variety of natural processes and human activities. Sources of GHGs are generally as follows:

- $CO_2$ and $N_2O$ are byproducts of fossil fuel combustion.
- $N_2O$ is associated with agricultural operations such as fertilization of crops.
- $CH_4$ is commonly created by off-gassing from agricultural practices (e.g., keeping livestock) and landfill operations.
- Chlorofluorocarbons (CFCs) were widely used as refrigerants, propellants, and cleaning solvents, but their production has been stopped by international treaty.
- HFCs are now used as a substitute for CFCs in refrigeration and cooling.
- PFCs and $SF_6$ emissions are commonly created by industries such as aluminum production and semiconductor manufacturing.

An expanding body of scientific research supports the theory that global climate change is currently causing changes in weather patterns, average sea level, ocean acidification, chemical reaction rates, and precipitation rates, and that it will increasingly do so in the future. The climate and several naturally occurring resources within California are adversely affected by the global warming trend. Increased precipitation and sea level rise will increase coastal flooding, saltwater intrusion, and degradation of wetlands. Mass migration and/or loss of plant and animal species could also occur. Potential effects of global climate change that could adversely affect human health include more extreme heat waves and heat-related stress; an increase in climate-sensitive diseases; more frequent and intense natural disasters such as flooding, hurricanes and drought; and increased levels of air pollution.

### 3.8.1.2 *Regulatory Framework*

**State**

Assembly Bill 32

Under the California Global Warming Solutions Act, also known as AB 32, CARB established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHGs, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of $CO_2E$ ($MMTCO_2e$). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 $MMTCO_2e$.

Senate Bill 375

SB 375, known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. SB 375 builds upon AB 32 by requiring CARB to develop regional GHG reduction targets for automobile and light truck sectors for 2020 and 2035. The per-capita GHG emissions reduction targets for passenger vehicles in the San Francisco Bay Area include a 7 percent reduction by 2020 and a 15 percent reduction by 2035.

Consistent with the requirements of SB 375, the Metropolitan Transportation Commission (MTC) partnered with the Association of Bay Area Governments (ABAG), BAAQMD, and the Bay Conservation and Development Commission to prepare the region's Sustainable Communities Strategy (SCS) as part of the Regional Transportation Plan process. The SCS is referred to as Plan Bay Area 2040. Plan Bay Area 2040 establishes a course for reducing per-capita GHG emissions through the promotion of compact, high-density, mixed-use neighborhoods near transit, particularly within identified Priority Development Areas (PDAs).

**Regional and Local**

2017 Clean Air Plan

To protect the climate, the 2017 CAP (prepared by BAAQMD) includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

CEQA Air Quality Guidelines

The BAAQMD CEQA Air Quality Guidelines are intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The jurisdictions in the San Francisco Bay Area Air Basin utilize the thresholds and methodology for assessing GHG impacts developed by BAAQMD within the CEQA Air Quality Guidelines. The

guidelines include information on legal requirements, BAAQMD rules, methods of analyzing impacts, and recommended mitigation measures.

Climate Smart San José

Climate Smart San José was developed by the City to reduce air pollution, save water, and create a healthier community. The plan contains nine strategies to reduce carbon emissions consistent with the Paris Climate Agreement. These strategies include use of renewable energy, densification of neighborhoods, electrification and sharing of vehicle fleets, investments in public infrastructure, creating local jobs, and improving building energy-efficiency.

Reach Building Code

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

San José Municipal Code

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

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

City of San José Private Sector Green Building Policy (6-32)

In October 2008, the City adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. Future development proposed under the Downtown Strategy 2040 would be subject to this policy.

Envision San Jose 2040 General Plan

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

| Policy | Description |
|---|---|
| MS-2.11 | Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g., design to maximize cross ventilation and interior daylight) and through site design techniques (e.g., orienting buildings on sites to maximize the effectiveness of passive solar design). |
| MS-14.4 | Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy system, selection of materials and resources, water efficiency, sustainable site selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption. |
| CD-3.2 | Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity. |
| CD-5.1 | Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community |
| LU-5.4 | Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage. |
| TR-3.3 | As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities. |

San José 2030 Greenhouse Gas Reduction Strategy

The 2030 Greenhouse Gas Reduction Strategy (GHGRS) is the latest update to the City's GHGRS and is designed to meet statewide GHG reduction targets for 2030 set by Senate Bill 32. As a qualified Climate Action Plan, the 2030 GHGRS allows for tiering and streamlining of GHG analyses under CEQA. The GHGRS identifies General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Projects that comply with the policies and strategies outlined in the 2030 GHGRS, would have less than significant GHG impacts under CEQA.[57]

### 3.8.1.3 *Existing Conditions*

Unlike emissions of criteria and toxic air pollutants, which have regional and local impacts, emissions of GHGs have a broader, global impact. Global warming is a process whereby GHGs accumulating in the upper atmosphere contribute to an increase in the temperature of the earth and changes in the weather patterns.

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

The project site is currently developed with a surface parking lot and landscaping. Operation of the surface parking lot generates GHG emissions from vehicles traveling to and from the site, and electricity usage for lighting.

### 3.8.2 Impact Discussion

For the purpose of determining the significance of the project's impact on greenhouse gas emissions, would the project:

a) Generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?
b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?

#### 3.8.2.1 *Project Impacts*

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

**b) Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs?**

**Consistency with 2030 GHGRS**

As discussed in Section 3.8.1.2, Regulatory Framework, the project would be subject to the City's recently approved 2030 GHGRS which was adopted after a project-level GHG analysis was prepared for the proposed project. Therefore, calculations of the project's GHG emissions are included for informational purposes, along with a summary of the project's consistency with the 2030 GHGRS.

The 2030 GHGRS identifies required General Plan policies and strategies to be implemented by development projects in the areas of green building/energy use, multimodal transportation, water conservation, and solid waste reduction. Compliance with these mandatory policies and strategies and any voluntary measures proposed by the project ensure a project's consistency with the GHG Reduction Strategy. The proposed project is consistent with the Land Use/Transportation Diagram designation of *Neighborhood/ Community Commercial*. The proposed project incorporates applicable mandatory measures of the GHGRS (refer to Appendix E), including connections to existing bike and pedestrian facilities, and planting and retention of trees to reduce energy use.

**Project Emissions**

The proposed project would generate GHG emissions during construction and operation. It is estimated that construction of the proposed mixed-use development would generate a total of approximately 1,704 MT of $CO_2e$ and the construction of the proposed trail improvements would generate a total of approximately 19.45 MT of $CO_2e$. Long term operational emissions associated with the proposed mixed-use development were estimated using the California Emissions Estimator model (CalEEMod) and are summarized in Table 3.8-1, below. As noted in Section 3.3, Air Quality, the proposed trail improvements would not include combustion sources during operation and therefore, would not emit GHG emissions. The proposed trail improvements would provide a new

pedestrian connection between the existing residential neighborhoods to the south and west of the Blossom Hill light rail station and Martial Cottle Park and would not itself produce vehicle trips or mobile GHG emissions separate from the proposed mixed-use development. Refer to Appendix B for modeling details, data inputs, and assumptions.

**Table 3.8-1: Annual Project GHG Emissions (MT of CO2e) by Service Population**

| Source Category | Proposed Project Land Use in 2026 | Proposed Project in 2030 |
|---|---|---|
| Area | 4 | 4 |
| Energy Consumption | 155 | 155 |
| Mobile | 1,198 | 1,112 |
| Solid Waste Generation | 88 | 88 |
| Water Usage | 31 | 31 |
| Total (MT $CO_2e$/ year) | 1,476 | 1,390 |
| *Significance Threshold* | --- | *660 MT $CO_2e$/ year* |
| **Exceed Threshold?** | --- | **Yes** |
| Service Population Emissions[1] (MT $CO_2e$/ year/ service population) | 1.3 | 1.2 |
| *Significance Threshold* | --- | 2.6 MT of $CO_2e$/year/service population |
| **Exceed both Thresholds?** | **---** | **No** |

[1] The service population emissions were calculated assuming a service population of 1,139 individuals (736 residents and 12 employees, refer to Section 3.13 Population and Housing).

Source: Illingworth & Rodkin, Inc. Blossom Hill Station TOD Air Quality & Greenhouse Gas Assessment. November 2020, revised January 28, 2022.

As noted above, the project would be consistent with 2030 GHGRS and its calculated construction and operational GHG emissions would not conflict with AB 32 or SB 32. For these reasons, the impact would be less than significant.

**(Less than Significant Impact)**

### 3.8.2.2 *Cumulative Impacts*

**Would the project result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact?**

As discussed in Section 3.8.1, GHG emissions have a broader, global impact; therefore, if a project would result in a significant project-level GHG impact, it would also result in a significant cumulative GHG impact. The discussion above under checklist questions a) and b) show that the project would not have a significant GHG emissions impact. For these reasons, the project would not result in a cumulatively considerable contribution to a significant cumulative GHG emissions impact.

**(Less than Significant Cumulative Impact)**

## 3.9 HAZARDS AND HAZARDOUS MATERIALS

This discussion is based, in part on the Phase I Environmental Site Assessment (ESA) prepared by Arcadis in April 2018. A copy of this report is attached as Appendix F to this Draft EIR. Public comments received during the NOP scoping process pertained to emergency access which is discussed in Section 3.9.2 below.

### 3.9.1 Environmental Setting

#### 3.9.1.1 *Regulatory Framework*

**Overview**

The storage, use, generation, transport, and disposal of hazardous materials and waste are highly regulated under federal and State laws. Federal regulations and policies related to development include the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, and the Resource Conservation and Recovery Act. In California, the EPA has granted most enforcement authority over federal hazardous materials regulations to the California Environmental Protection Agency (CalEPA). In turn, local agencies have been granted responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program.

Worker health and safety and public safety are key issues when dealing with hazardous materials. Proper handling and disposal of hazardous material is vital if it is disturbed during project construction. Cal/OSHA enforces State worker health and safety regulations related to construction activities. Regulations include exposure limits, requirements for protective clothing, and training requirements to prevent exposure to hazardous materials. Cal/OSHA also enforces occupational health and safety regulations specific to lead and asbestos investigations and abatement.

**Federal and State**

Federal Aviation Regulations Part 77

Federal Aviation Regulations, Part 77 Objects Affecting Navigable Airspace (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above the ground.

Government Code Section 65962.5

Section 65962.5 of the Government Code requires CalEPA to develop and update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by State and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous

substance release sites identified by the Department of Toxic Substances Control (DTSC) and State Water Resources Control Board (SWRCB).[58]

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond the boundaries of a property. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. The Santa Clara County Department of Environmental Health reviews CalARP risk management plans as the CUPA.

Asbestos-Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl floor tiles, and transite siding made with cement. The EPA phased out use of friable asbestos products between 1973 and 1978. National Emission Standards for Hazardous Air Pollutants guidelines require that potentially friable ACMs be removed prior to building demolition or remodeling that may disturb the ACMs.

CCR Title 8, Section 1532.1

The United States Consumer Product Safety Commission banned the use of lead-based paint in 1978. Removal of older structures with lead-based paint is subject to requirements outlined by Cal/OSHA Lead in Construction Standard, CCR Title 8, Section 1532.1 during demolition activities. Requirements include employee training, employee air monitoring, and dust control. If lead-based paint is peeling, flaking, or blistered, it is required to be removed prior to demolition.

**Regional and Local**

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

The Norman Y. Mineta San José International Airport (SJIA) is located approximately eight miles north of the project site. Development within the Airport Influence Area (AIA) can be subject to hazards from aircraft overflight and also pose hazards to aircraft travelling to and from the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and State regulations as well as in land use regulations and policies in the Airport Comprehensive Land Use Plan (CLUP). The project site is not located within the AIA nor the safety zones designated by the CLUP.

Envision San José 2040 General Plan

In addition to the above regulations, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from

[58] CalEPA. "Cortese List Data Resources." Accessed September 16, 2020. https://calepa.ca.gov/sitecleanup/corteselist.

planned development within the City. The proposed project would be subject to the hazards and hazardous materials policies and actions of the City's General Plan, including the following:

| Policy | Description |
|---|---|
| EC-6.6 | Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church, or other uses that would place sensitive populations in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed to protect human health. |
| 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 existing that could adversely impact the community or environment. |
| EC- 7.2 | Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards for future users and provide as part of the environmental review process for all development projects. Mitigation measures or 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. |
| 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 remediations. |
| EC-7.5 | In development sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with State and federal laws and regulations. |
| 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 regulatory oversight exists. |
| 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. |
| EC-7.11 | Require sampling of residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided. |

#### 3.9.1.2 *Existing Conditions*

The 7.42-acre site is located north of Blossom Hill Road between Canoas Creek and SR 85 in San José. The project site is currently developed with a bus stop, entrance to a light rail station, surface parking lot and landscaping. Surrounding land uses include residential and commercial uses to the east, west and northeast. Agricultural uses are present to the northwest, across SR 85.

### Historic Uses of the Project Site and Surrounding Land Uses

Review of topographic maps and historical aerial photographs indicated that the project site had been used for agricultural purposes since approximately 1939 with four small structures present on the eastern portion of the site. Properties in the surrounding area consisted of farmland and orchards until the mid-1970s. Residential development began to occur in as early as 1974. The current parking lot and transit stops were constructed by 1998 and no significant changes to the site have been made since that time. Between 2012 and 2013, the site was used as a temporary waste collection site for household hazardous waste. However, past use of the site for these purposes was determined not to represent a recognized environmental concern as no records of violations or releases are associated with this use.

### Off-Site Sources of Contamination

The Phase I ESA included a review of federal, State and local regulatory agency databases to evaluate the likelihood of contamination incidents within one mile of the project site and identify recognized environmental conditions. Five properties in the project vicinity were listed in regulatory databases as sites with potential hazardous materials of concern. A description of these sites and the potential hazards present is included in Table 3.9-1.

**Table 3.9-1: Listed Sites of Potential Hazard in the Project Vicinity**

| Site Name | Address | Distance to Project Site | Description |
|---|---|---|---|
| CSJ Canoas Injection Station | 616 Blossom Hill Road | <0.12 mile | The facility was listed as a “city facility” with a Hazardous Materials Business Plan. No release was indicated, and it is located cross-gradient from the project site. |
| Samaritan Medical Center | 554 Blossom Hill Road | <0.12 mile | Photo processing waste was generated at the property in 2006 and 2007. The facility was also listed as an auto wrecking or miscellaneous simple facility. This site is located potentially up-gradient of the project site, however, no release was identified. |
| Gas N’ Go/ Exxon Service Station No. 7-3188 | 621 Blossom Hill Road | <0.12 mile | The property was occupied by a gas/service station since at least 1966 and contains four underground storage tanks. Leaking Underground Storage Tanks were reported on the property and a clean-up case was closed as of August 17, 1998 and April 11, 2014. This site is located cross-gradient from the project site. |
| Blossom Hill Test Only | 621 Blossom Hill Road | <0.12 mile | The site appears to be the Gas N’ Go facility described above and is listed as having a Hazardous Materials Business Plan. This site is located cross-gradient from the project site. |
| Save Money Auto | 621 Blossom Hill Road | <0.12 mile | The facility was reported as generating between 100 kilograms to less than five tons of waste per year. The site appears to be the Gas N’ Go described above. No |

| Table 3.9-1: Listed Sites of Potential Hazard in the Project Vicinity | | | |
|---|---|---|---|
| **Site Name** | **Address** | **Distance to Project Site** | **Description** |
| | | | release was indicated. This site is located cross-gradient from the project site. |
| Source: Arcadis U.S. Inc. *Phase I Environmental Site Assessment Report; VTA- Blossom Hill Parking Lot (Parcel 32).* April 18, 2018. | | | |

Based on the distances from the site, presumed groundwater gradient, and current facility statuses, the other facilities listed in the project vicinity do not represent recognized environmental conditions (RECs) to the site.

### 3.9.1.3 *Other Hazards*

#### Airports

The nearest airports to the site are Reid-Hillview Airport, approximately six miles northeast of the project site, and the Norman Y. Mineta San José International Airport, approximately eight miles north of the site. Given the distance of the project site from these airports, the site is not located within the AIA of either airport; nor is the site located in an airport safety zone designated in the Comprehensive Land Use Plans for the airports.[59] The project site is not within an area regulated by the Federal Aviation Administration's Federal Aviation Regulations (FAR) Part 77 height requirements for new developments given the distance of the site from the airports.

#### Wildfire

The project site is surrounded by residential and commercial development and is not located within a Very-High Fire Hazard Severity Zone for wildland fires designated by CalFIRE.[60]

## 3.9.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hazards and hazardous materials, would the project:

a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

[59] County of Santa Clara Department of Planning and Development. Airport Land Use Commission: Comprehensive Land Use Plans and Associated Documents. November 16, 2016. Accessed September 16, 2020. https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx
[60] California Department of Forestry and Fire Protection. Santa Clara County FHSZ Map. October 8, 2008. Accessed September 16, 2020. https://osfm.fire.ca.gov/media/6764/fhszl_map43.pdf

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

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

f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

### 3.9.2.1 *Project Impacts*

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

Post-construction operation of the proposed mixed-use development and trail improvements would not result in hazardous materials being transported, used, or disposed of in quantities that would result in a significant hazard to the public. Operation of the proposed project would include the use and storage of cleaning supplies and maintenance chemicals in small quantities. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and materials would not pose a risk to site users or adjacent land uses. For these reasons, impacts would be less than significant.

**(Less than Significant Impact)**

**b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

**On-site Contamination**

As part of the Phase I ESA completed for the project site, a review of federal, State, and local regulatory agency databases was completed to evaluate the likelihood of contamination incidents at and near the project site. The purpose of the records review was to obtain available information to help identify recognized environmental conditions. The project site (including the area of the proposed mixed-use development and trail improvements) is listed in the Santa Clara CUPA database as a Permit by Rule Household Hazardous Waste Temporary facility. However, no violations or spills were recorded. No records pertaining to the site were found or available at the Santa Clara County Consumer and Environmental Protection Agency, San José Fire Department, or San José Department of Planning, Building, and Code Enforcement, Building Division. As noted above, the project site was formerly used for agricultural purposes, indicating the potential for residual pesticides in on-site soils. Although the Phase I concluded that past use of agricultural chemicals on the site does not represent a REC, proposed ground disturbing activities could expose construction workers and the public to hazards from residual pesticides during excavation and grading. Therefore,

the project would result in a significant impact with regard to exposure of construction workers and adjacent sensitive receptors to residual pesticides in the soil.

**Impact HAZ-1:** Project construction could result in health risks to construction workers and nearby sensitive receptors from exposure to residual agricultural chemicals in the soil during ground disturbing activities.

**Mitigation Measures:** The project would implement the following mitigation measures to reduce impacts related to pesticide contamination in on-site soils.

**MM HAZ-1.1:** Prior to issuance of a demolition or grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II soil contamination investigation to evaluate past agricultural use. The Phase II shall include shallow soil sampling and analysis for organochlorine pesticides and pesticide-based metals, arsenic and lead to determine if these chemicals are present above Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs) for construction worker safety and residential uses. The results of the soil sampling and testing must be provided to the Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Environmental Compliance Officer.

If the Phase II results indicate soil concentrations above the RWQCB ESLs, the project applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or Director's designee, and the City's Environmental Compliance Officer.

With implementation of MM HAZ-1.1, impacts related to exposure to residual pesticides in the soil would be reduced to a less than significant level.

### Off-site Impacts

As noted above, based on the distances from the site, groundwater gradient, and current facility statuses, the off-site properties listed in Table 3.9-1 do not represent recognized environmental conditions (RECs) to the site.[61] As a result, the proposed project and trail improvements would not result in human health or environmental hazards to receptors, which is consistent with General Plan Policy EC-7.2 and impacts would be less than significant.

**(Less than Significant Impact)**

[61] Arcadis U.S. Inc. *Phase I Environmental Site Assessment Report; VTA- Blossom Hill Parking Lot (Parcel 32).* April 18, 2018.

**c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

The closest school to the project site (specifically the area of the proposed mixed-use development) is Earl Frost Elementary School at 530 Gettysburg Drive, approximately 0.25-mile southeast of the site. The project would not use or store hazardous materials in sufficient quantities to pose a health risk to any nearby school. Implementation of existing regulations and adopted plans would substantially reduce hazards to people. The project applicant would be required to provide a construction haul route for review and approval by the City's Public Works Department before a ground disturbing permit is granted. This review would ensure that haul routes avoid schools, and that the applicant is aware of all federal and State regulations for transporting hazardous materials. For these reasons, the proposed project would have a less than significant hazardous impact on Earl Frost Elementary school.

**(No Impact)**

**d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

The project site (including the area of the proposed mixed-use development and trail improvements) is not listed as a hazardous materials site pursuant to Government Code Section 65962.5, and therefore, would not be located on a hazardous site that would result in a significant hazard to the public or the environment.[62]

**(No Impact)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is approximately six miles southwest of Reid-Hillview Airport (the nearest airport to the project site). The proposed mixed-use development and trail improvements do not require airspace safety review by the FAA and the site is not located within the ALUC's Airport Influence Area. The proposed mixed-use development and trail improvements would not result in aircraft safety hazards and would not result in a substantial safety hazard for people residing or working in the project area.

**(No Impact)**

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

[62] Ibid.

The proposed mixed-use development and trail improvements would be located in a developed area on an infill site. There are no formal evacuation routes or emergency response plans impacting the proposed project or adjacent parcels. The project would be constructed in accordance with current building and fire codes to ensure structural stability and safety. In addition, the San José Fire Department (SJFD) would review the site development plans to ensure fire protection design features are incorporated and adequate emergency access is provided. For these reasons, the project would not impair implementation of, or physically interfere with, the City's Emergency Operations and Evacuation Plans and impacts would be less than significant.

**(Less than Significant Impact)**

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

As discussed in Section 3.9.1.3, the project site is not located within a Very-High Fire Hazard Severity Zone for wildland fires designated by CalFIRE.[63]

**(No Impact)**

### 3.9.2.2 *Cumulative Impacts*

**Would the project result in a cumulatively considerable contribution to a significant cumulative hazards and hazardous materials impact?**

The geographic area for hazards and hazardous materials is the project site and adjacent parcels. Hazardous materials contamination is typically a localized issue. None of the cumulative projects identified in Table 3.0 1 would involve the routine transport, use, or disposal of hazardous materials other than minor quantities required for emergency operations (e.g., diesel generators), cleaning, maintenance, or landscaping. Further, all future cumulative development be required to comply with all applicable standards and regulations put in place to minimize impacts from the transport, use, storage, and disposal of hazardous materials. Therefore, the cumulative projects would not result in a significant cumulative impact due to routine transport, use, or disposal of hazardous materials. As discussed above, the project would have no impact on hazards or hazardous materials; therefore, the project would not result in a cumulatively considerable contribution to hazards or hazardous materials impact. Hazardous materials are regulated by State and federal laws. All construction projects within the City would be required to undergo a similar review process to ensure hazards and hazardous materials are handled safely.

**(No Cumulative Impact)**

[63] California Department of Forestry and Fire Protection. Santa Clara County FHSZ Map. October 8, 2008. Available at: https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/.

## 3.10 HYDROLOGY AND WATER QUALITY

Public comments received during the NOP scoping process pertained to water quality during construction which is discussed in Section 3.10.2 below.

### 3.10.1 Environmental Setting

#### 3.10.1.1 *Regulatory Framework*

**Overview**

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

**Federal and State**

National Flood Insurance Program

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

Statewide Construction General Permit

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

**Regional and Local**

San Francisco Bay Basin Plan

The San Francisco Bay RWQCB regulates water quality in accordance with the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The Basin Plan lists the beneficial uses that the San Francisco Bay RWQCB has identified for local aquifers, streams, marshes, rivers, and the San Francisco Bay, as well as the water quality objectives and criteria that must be met to protect

these uses. The San Francisco Bay RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements, including permits for nonpoint sources such as the urban runoff discharged by a City's stormwater drainage system. The Basin Plan also describes watershed management programs and water quality attainment strategies.

Municipal Regional Permit Provision C.3.

The San Francisco Bay RWQCB re-issued the Municipal Regional Stormwater NPDES Permit (MRP) in 2015 to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo.[64] Under Provision C.3 of the MRP, new and redevelopment projects that create or replace 10,000 square feet or more of impervious surface area are required to implement site design, source control, and Low Impact Development (LID)-based stormwater treatment controls to treat post-construction stormwater runoff. LID-based treatment controls are intended to maintain or restore the site's natural hydrologic functions, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses). The MRP also requires that stormwater treatment measures are properly installed, operated, and maintained.

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

Green Stormwater Infrastructure Plan

The City of San José has developed a Green Stormwater Infrastructure Plan (GSI Plan) to lay out the approach, strategies, targets, and tasks needed to transition traditional "gray" infrastructure to include green stormwater infrastructure over the long term and to implement and institutionalize the concepts of GSI into standard municipal engineering, construction, and maintenance practices. The GSI Plan is intended to serve as an implementation guide for reducing the adverse water quality impacts of urbanization and urban runoff on receiving waters over the long term, and a reporting tool to provide reasonable assurance that specific pollutant reductions from discharges to local creeks and San Francisco Bay will be met. The GSI Plan is required by the City's MRP for the discharge of stormwater runoff from the City's storm drain system.

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

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

[64] MRP Number CAS612008

construction TCMs for projects that create or replace 10,000 square feet or more of impervious surfaces.

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

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

Santa Clara and Llagas Subbasin Groundwater Management Plan

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

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or minimizing impacts resulting from planned development projects in the City. The proposed project would be subject to applicable policies of the City's General Plan, including the following:

**Envision San José 2040 Relevant Hydrology and Water Quality Policies**

| Policy | Description |
|---|---|
| IN-3.7 | Design new projects to minimize potential damage due to stormwaters and flooding to the site and other properties. |
| IN-3.9 | Require developers to prepare drainage plans that define needed drainage improvements per City standards. |
| 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. |
| ER-8.1 | Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies. |

| | |
|---|---|
| ER-8.3 | Ensure that private development in San José includes adequate measures to treat stormwater runoff. |
| EC-4.1 | Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and stormwater controls. |
| EC-5.7 | Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere. |
| 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. |

### 3.10.1.2 *Existing Conditions*

#### Hydrology and Drainage

The 7.42-acre project site is located in the Guadalupe watershed. The Guadalupe watershed is a 171-square-mile area that drains the Guadalupe River and its tributaries from the eastern Santa Cruz Mountains to the valley floor. Runoff from the project site and the surrounding areas enter the City's storm drainage system, which outfalls to Canoas Creek, located 20 feet west of the project site. The project site is currently developed and paved with approximately 274,794 square feet (85 percent) of the site covered with impervious surfaces, and 48,421 square feet (15 percent) of the site covered in pervious surface.

#### Flooding and Other Hazards

A portion of the project site is located within a 100-year flood zone. According to the FEMA FIRMS, the majority of the project site is located within Zone D and a small portion of the site adjacent to Canoas Creek is located within Flood Zone A.[65] Flood Zone D denotes areas of undetermined, but possible, flood hazards. Flood Zone A denotes areas subject to inundation by the one-percent annual chance of flood event.

According to the General Plan FPEIR, the project site is located within the Calero dam failure inundation area.[66]

#### Storm Drainage System

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as "non-point" source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Surface runoff from the project site and surrounding area is collected by storm drains and discharged into Canoas Creek. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust and animal feces), pesticides, litter, and heavy metals. In sufficient concentrations, these pollutants have been found to adversely affect the aquatic habitats to which they drain.

[65] Federal Emergency Management Agency. *Flood Insurance Rate Map, Community Panel No* 06085C0402H. Effective Date May 18, 2009.
[66] City of San José. *Envision San José 2040 General Plan Integrated Final Program Environmental Impact Report.* Figure 3.7-5.

Under existing conditions, the project site is developed with a transit station, a parking lot, and limited landscaping. Runoff from the site vicinity contains sediment, metals, trash, oils and grease from paved areas. Runoff from the project site currently flows directly into the City's storm drainage system, untreated for the removal of pollutants.

### 3.10.2 Impact Discussion

For the purpose of determining the significance of the project's impact on hydrology and water quality, would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
    - result in substantial erosion or siltation on- or off-site;
    - substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
    - create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
    - impede or redirect flood flows?
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

#### 3.10.2.1 *Project Impacts*

**a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?**

The project site (including the area of the proposed mixed-use development and trail improvements) is currently developed with a bus stop, light rail station entrance, surface parking lot, and landscaping. Runoff from the site and vicinity contains sediment, metals, trash, oils, and grease from paved areas.

**Construction Impacts**

Construction activities (e.g., grading and excavation) on the project site for the proposed mixed-use development and trail improvements may result in temporary impacts to surface water quality. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drainage system. Construction of the proposed project would disturb approximately 5.17 acres of the project site, replace 154,479 square

feet of impervious surfaces resulting in a 4.9 percent reduction in impervious surfaces at the project site. Since construction of the proposed project would disturb more than one acre of soil, the project would be required to comply with the NPDES General Permit for Construction Activities. Because the project would replace more than 10,000 square feet of impervious surfaces, the project is subject to the requirements of the RWQCB MRP. All development projects in San José are required to comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 1st to April 30th), the applicant would be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Erosion Control Plan must detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to City requirements, the following Standard Permit Conditions have been included in the project to reduce potential construction-related water quality impacts.

Standard Permit Conditions: The project would be required to implement the following best management practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:

- 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 is disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove 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. Prior to construction grading for the proposed land uses, the project proponent shall file a Notice of Intent 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 shall include, but are not limited to, the aforementioned RWQCB Best Management Practices.

- The SWPPP shall be posted at the project site and shall be updated to reflect current site conditions.
- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the SWRCB. The NOT shall 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.

Construction of the proposed project, with the implementation of the above measures, would not result in significant construction-related water quality impacts.

**Post-Construction Impacts**

The project (including the proposed mixed-use development and trail improvements) would replace more than 10,000 square feet of existing impervious surface area; therefore, it is considered a regulated project under Provision C.3 of the MRP. As such, the project proposes the use of numerically sized bioretention basins and media filter systems to meet the on-site runoff treatment requirements. Stormwater runoff from the new impervious surfaces on the site would be directed to new on-site stormwater inlets and would be transported via 6- to 18-inch storm drainpipes to treatment control measures on-site. Stormwater would be treated and then directed to the City's existing 72-inch storm drain main on Blossom Hill Road. Site design and pollutant source control measures contained in the project include the preservation of existing trees, use of drought-tolerant and water-conserving landscape materials, and stenciled storm drain inlets. Implementation of these measures would reduce the rate of stormwater runoff while also removing the pollutants. For these reasons, the proposed project would not result in significant impacts (consistent with applicable post-construction standards).

**(Less than Significant Impact)**

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

The proposed mixed-use development and trail improvements do not include installation of new groundwater wells and would not deplete groundwater supplies. The project site (including the area of the proposed mixed-use development and trail improvements) is located within the Santa Clara Plan Recharge Area of the Santa Clara Valley Basin where groundwater occurs under unconfined conditions.[67] The site (including the area of the proposed mixed-use development and trail improvements) is not, however, within or adjacent to a SCVWD groundwater recharge facility. The maximum depth of excavation required to construct the proposed development is 5 feet bgs for most of the site, with the exception of certain areas of the site where storm drain and sanitary sewer manholes would be installed. The maximum depth of excavation to install the manholes would be 17 feet bgs. Groundwater levels at the site is less than 20 feet bgs. Given the depth of groundwater at the

[67] Santa Clara Valley Water District. Groundwater Management. Accessed September 16, 2020. https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-management.

site, it is not likely that groundwater would be encountered at the site during excavation or construction of the project. For these reasons, development of the proposed project would not result in the need to pump groundwater from the site, nor interfere with groundwater recharge and impacts would be less than significant.

**(Less Than Significant Impact)**

**c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows?**

Construction of the proposed mixed-use development and trail improvements would not substantially alter the existing drainage pattern on the project site or surrounding area. No improvements or construction activity is proposed within Canoas Creek.

Development of the proposed mixed-use and residential buildings, trail improvements, landscaping and other improvements would decrease the total impervious surface area of the project site by approximately 15 percent from existing conditions. Stormwater runoff from the site would be directed to new on-site stormwater inlets and would be transported via 6- to 18-inch storm drainpipes to treatment control measures on-site. Stormwater would be treated, then directed to the City's existing 72-inch storm drain main on Blossom Hill Road.

The project would also construct bioretention areas within the landscaped islands of the surface parking lot in the northern portion of the project site, consistent with the MRP and City of San José Policy 6-29. The proposed bioretention areas which would remove pollutants and reduce the rate and volume of runoff from the project site, reducing the potential for erosion or siltation on and off-site. Construction of the proposed project would reduce runoff from the project site (when compared to existing conditions), and therefore, would not exceed the capacity of the City's existing and/or planned storm drainage system or provide additional sources of polluted runoff, or impede/redirect flood flows. For these reasons, impacts would be less than significant.

**(Less than Significant)**

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

As noted in Section 3.10.1, Environmental Setting, a portion of the project site (including the area of the proposed mixed-use development and trail improvements) is located within a 100-year flood hazard zone. However, the portion of the project site where development is proposed is designated by FEMA as Zone D, which is an area where flood hazards are undetermined but possible. The project and trail improvements would comply with Post-Construction Urban Runoff Policy 6-29 and

Provision C.3 of the RWQCB Municipal Regional NPDES Permit requirements to reduce the impacts of stormwater runoff on post construction water quality.

The project site (including the area of the proposed mixed-use development and trail improvements) is not in proximity to a large body of water and is not located within a designated tsunami or seiche inundation zone.[68] The proposed project would, therefore, not risk release of pollutants due to project inundation from a flood, tsunami, or seiche.

**(Less than Significant Impact)**

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

As discussed in checklist questions a and b, the proposed mixed-use development and trail improvements would implement Standard Permit Conditions, would be required to comply with the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP requirements. The project would not impact groundwater recharge, consistent with the SCVWD's 2016 Groundwater Management Plan. For these reasons, the project would not conflict with implementation of a water quality or groundwater management plan.

**(Less than Significant Impact)**

### 3.10.2.2 *Cumulative Impacts*

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

The geographic area for cumulative hydrology and water quality impacts is the Guadalupe River Watershed.

All cumulative projects are required to adhere to state and local regulations and implement the City's Standard Permit Conditions (as identified under checklist question a), to comply with water quality standards and waste discharge requirements, thereby resulting in less than significant impacts to surface or ground water quality. These regulations are in place to ensure individual projects do not result in a significant cumulative impact. The General Plan FEIR concluded that adherence to these regulations by future projects would ensure associated impacts to water quality are less than significant. For these reasons, the project would not result in a cumulatively significant impact to water quality.

The impact of cumulative projects within the Guadalupe River Watershed on groundwater supplies and recharge is contingent on the condition of its associated groundwater basin, its water demand, project-specific information (e.g., any permanent dewatering requirements), and effects on recharge facilities. All cumulative projects within the Guadalupe Watershed would be required to comply with Valley Water's Santa Clara and Llagas Subbasin GMP and state regulations (including those

[68] California Department of Conservation. *Santa Clara County Tsunami Inundation USGS 24K Quads.* Accessed September 16, 2020. https://www.conservation.ca.gov/cgs/tsunami/maps.

identified in Section 3.10.1.1 Regulatory Framework) protecting groundwater resources. As discussed in Section 3.19 Utilities and Service Systems, existing water supplies are available to meet the demand of the project. Because of this, and the fact that the project would not directly affect groundwater supplies or groundwater recharge and would result in an increase of previous surfaces on the project site compared to existing conditions (thereby resulting in a corresponding increase in surface infiltration), the project would not result in a cumulatively considerable decrease in groundwater supplies or interfere substantially with groundwater recharge such that the project would impede sustainable groundwater management of the basin.

All cumulative projects are also required to adhere to General Plan policies, Standard Permit Conditions, and existing regulations (including the Construction General Permit and Provision C.3) to manage stormwater runoff and erosion and reduce impacts to a less than significant level. These regulations are in place to ensure individual projects do not result in a significant cumulative impact. The General Plan FEIR concluded that adherence to these regulations would ensure that future projects do not alter existing drainage patterns in a manner that would result in on- or off-site erosion or flooding. As discussed under checklist question c), the project would comply with existing regulations and would not exceed the capacity of the City's existing and/or planned storm drainage system or provide additional sources of polluted runoff or impede/redirect flood flows. Therefore, the project would not result in a cumulatively significant impact related to on- or off-site erosion or flooding.

Any risk of project inundation due to floods, dam failure, tsunamis, or seiches resulting in the release of pollutants would be reduced to a less than significant level through compliance with existing regulations regarding the use, storage, transport, and disposal of hazardous materials, as well as requirements of the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP requirements. The project would store its hazardous materials in compliance with existing regulations. The project site is not subject to tsunamis and seiches. Thus, the project would not result in a cumulatively significant risk of pollutant release due to inundation.

Lastly, the project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. Future cumulative development projects would be required to comply with the Post-Construction Urban Runoff Policy 6-29 and Provision C.3 of the RWQCB MRP requirements. Therefore, the project would not contribute to a cumulatively significant impact related to a water quality control plan or sustainable groundwater management plan.

**(Less than Significant Cumulative Impact)**

## 3.11 LAND USE AND PLANNING

Public comments received during the NOP scoping process pertained to the height of the proposed buildings in relation to surrounding neighborhoods and the residential density proposed which is discussed in Section 3.11.2.1 below.

### 3.11.1 Environmental Setting

#### 3.11.1.1 *Regulatory Framework*

**State**

Assembly Bill 3194

AB 3194, the Housing Accountability Act limits a City's ability to reject a housing development project for "very low, low, or moderate-income households or an emergency shelter" if it conforms to the City's general plan. In addition, this act requires that the local agency evaluate the project as if it is in a zoning district that is consistent with the General Plan.

**Local**

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the land use policies of the City's General Plan, including the following:

**Envision San José 2040 Relevant Land Use Policies**

| Policies | Description |
|---|---|
| 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. |
| 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). |
| CD-5.8 | Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety. |
| LU-6.2 | Prohibit encroachment of incompatible uses into industrial lands, and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues. |
| LU-9.4 | Prohibit residential development in areas with identified hazards to human habitation unless these hazards are adequately mitigated. |
| LU-9.5 | Require that new residential development de designed to protect residents from potential conflicts with adjacent land uses. |

| | |
|---|---|
| LU-9.7 | Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the Envision General Plan Land Use/ Transportation Diagram |
| TR-14.2 | Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation. |
| TR-14.4 | Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptability of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports. |

San José Zoning Ordinance

The Zoning Ordinance (Title 20 of the San José Municipal Code) is a set of regulations that promote and protect the public peace, health, and general welfare by:

- Guiding, controlling, and regulating future growth and development in the City in a sound and orderly manner, and promoting the achievement of the goals and purpose of the General Plan;
- Protecting the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
- Providing light, air, and privacy to property;
- Preserving and providing open space and preventing overcrowding of the land;
- Appropriately regulating the concentration of population;
- Providing access to property and preventing undue interference with and hazards to traffic on public rights-of-way; and
- Preventing unwarranted deterioration of the environment and promoting a balanced ecology.

#### 3.11.1.2 *Existing Conditions*

The 7.42-acre project site (APN 464-22-032) is developed with a bus stop, entrance to the Blossom Hill VTA light rail station, parking lot, and landscaping. The project site is zoned *Agriculture (A)* and has a designated land use of *Neighborhood/Community Commercia*l under the General Plan. The site is also located within the Blossom Hill/Cahalan Avenue Urban Village.

The project site (including the area of the proposed mixed-use development and trail improvements) is surrounded by SR 85, one- to two-story multi-family residences, and agricultural uses to the north, Canoas Creek, a one-story commercial building, and one- to two-story single-family residences to the west, SR 85 and one- to two-story single-family residences to the east, and one- to two-story commercial buildings and single-family residences to the south. The nearest airports are Reid-Hillview Airport, approximately six miles northeast of the project site, and the Norman Y. Mineta San José International Airport, approximately eight miles north of the project site. Given the distance of the project site from these airports, the site is not located within the AIA of either airport.[69]

[69] County of Santa Clara, Department of Planning and Development. *Airport Land Use Commission: Comprehensive Land Use Plans and Associated Documents.* November 16, 2016. Accessed September 16, 2020. https://www.sccgov.org/sites/dpd/Commissions/ALUC/Pages/ALUC.aspx

### 3.11.2 Impact Discussion

For the purpose of determining the significance of the project's impact on land use and planning, would the project:

a) Physically divide an established community?
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

#### 3.11.2.1 *Project Impacts*

**a) Would the project physically divide an established community?**

Examples of projects that have the potential to physically divide an established community include new freeways and highways, major arterial streets, and railroad lines. The project would construct two new mixed-use and residential buildings, landscaping, parking lot improvements, as well as trail improvements on an infill site. The proposed uses are allowed under the existing *Neighborhood/Community Commercial* General Plan land use designation and would not include construction of dividing infrastructure. The project site (including the area of the proposed mixed-use development and trail improvements) is located in a neighborhood with similar uses, and therefore, implementation of the project would not physically divide an established community. Furthermore, the proposed trail improvements would improve connectivity between the project site and surrounding neighborhoods to Martial Cottle Park. For these reasons, impacts would be less than significant.

**(No Impact)**

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

The project site's *Neighborhood/ Community Commercial* General Plan land use designation is intended for a broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail services and commercial/ professional office development. These developments are typically one to four-stories with a FAR up to 2.0. The proposed project would develop a six-story mixed use building and five-story residential building with a combined FAR of 1.57 on-site. As noted in Section 3.11.1.2, Existing Conditions above, existing commercial and residential development surrounding the site ranges from one- to two-stories. The proposed development would be in a growth area designated by the General Plan and in proximity to transit, jobs, amenities, and other services. The housing density at the site would be 80.7 units per acre for the market rate component and 90.8 units per acre for the affordable component. As noted in Section 3.0, the project would include 89 units of affordable housing units designated for residents with household incomes classified as Extremely Low, Very Low, and Low. The project site is within the Blossom Hill/Cahalan Avenue Urban Village Plan area, however, the Blossom Hill/Cahalan Avenue Urban Village Plan is being developed and has not yet been adopted.

Based on General Plan Policy IP-5.10, a residential mixed-use "Signature" project may proceed ahead of preparation of a Village Plan if it meets the following requirements:

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

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

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

As noted in Section 3.1 Aesthetics, the project site (specifically the area of the mixed-use development) is located within an identified City Gateway area. According to the General Plan, Gateway areas are considered prominent points within the City, marking the entrance of distinct neighborhoods or districts within the city. For a signature project to be considered on the project site, the development must provide more than 37,300 square feet of commercial space and have residential density of 55 dwelling units per acre or more. The proposed project has a General Plan land use designation of *Neighborhood/ Community Commercial*, would include up to 13,690 square feet of commercial space, and would have a residential density of 80.7 units per acre for the market rate component, and 90.8 units per acre for the affordable component. As noted in Section 2.2, Project Description, the project is requesting a Density Bonus Incentive to reduce the amount of required commercial space. The project would satisfy the residential density requirements for a signature project. Additionally, as previously noted, the project would include improvements to the existing transit plaza, construction of a pedestrian/bicycle trail on-site along Canoas Creek, satisfying the open space requirements for signature projects. For these reasons, the proposed project would be considered a Signature project and would be allowed to proceed ahead of the Blossom Hill/Cahalan Urban Village Plan.

Furthermore, with the implementation of applicable General Plan policies, mitigation measures, and Standard Permit Conditions in identified throughout this Draft EIR, the project would not result in a significant environmental effect due to a conflict with a land use plan or policy.

As noted in Section 3.11.1.2, Existing Conditions above, the project site is in the *A - Agriculture* Zoning District which is inconsistent with the site's *Neighborhood/Community Commercial* General Plan land use designation. However, because the project includes housing and is consistent with the policies and objectives of the General Plan, the project is subject to streamlining consistent with Assembly Bill 3194 and rezoning is not required.

The project is located outside of the AIAs of Norman Y. Mineta San José International and Reid-Hillview airports and, therefore, the project would not conflict with any Airport Comprehensive Land Use Plan. For the reasons described above, the project would not conflict with an adopted land use plan, policy, or regulation adopted for avoiding or mitigating an environmental effect and impacts would be less than significant.

**(Less than Significant Impact)**

### 3.11.2.2 *Cumulative Impacts*

**Would the project result in a cumulatively considerable contribution to a significant cumulative land use and planning impact?**

The geographic area for cumulative land use impacts is the City of San José. All projects in the area, including the proposed project, would be subject to applicable land use plans, policies, and regulations for the purpose of avoiding or mitigating environmental impacts. Development on the project site and surrounding area is consistent with the City's Envision 2040 General Plan. Therefore, the project would not result in a cumulatively considerable contribution to a significant land use and planning impact.

**(Less than Significant Cumulative Impact)**

## 3.12 MINERAL RESOURCES

### 3.12.1 Environmental Setting

#### 3.12.1.1 *Regulatory Framework*

**State**

Surface Mining and Reclamation Act

The Surface Mining and Reclamation Act (SMARA) was enacted by the California legislature in 1975 to address the need for a continuing supply of mineral resources, and to prevent or minimize the negative impacts of surface mining to public health, property, and the environment. As mandated under SMARA, the State Geologist has designated mineral land classifications in order to help identify and protect mineral resources in areas within the state subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Pursuant to the mandate of the SMARA, the SMGB has designated the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, SR 87, and Hillsdale Avenue as containing mineral deposits that are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the SMGB have classified any other areas in San José as containing mineral deposits of statewide significance or requiring further evaluation.

#### 3.12.1.2 *Existing Conditions*

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional significance. The project site is not on or adjacent to Communications Hill.

### 3.12.2 Impact Discussion

For the purpose of determining the significance of the project's impact on mineral resources, would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

#### 3.12.2.1 *Project Impacts*

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

The Communications Hill area in central San José is the only area within the City of San José that is designated by the State Mining and Geology Board as containing mineral deposits of regional

significance. The project site (including the area of the proposed mixed-use development and trail improvements) is not on or adjacent to Communications Hill. The project would not result in the loss of availability of a known mineral resource, no impact.

**(No Impact)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is not located in an area of San José or Santa Clara County with known mineral resources. Therefore, the project would not result in the loss of availability of a mineral resource recovery site, no impact.

**(No Impact)**

### 3.12.2.2 *Cumulative Impacts*

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

The project site (including the area of the proposed mixed-use development and trail improvements) is located within an urbanized, developed area of San José and is not located within an area containing known mineral resources. Therefore, the project would not result in a cumulatively considerable contribution to a significant mineral resources impact.

**(No Cumulative Impact)**

## 3.13 NOISE

The following discussion is based in part upon a Noise and Vibration Assessment completed by Illingworth & Rodkin, Inc. in January 2022. The report is attached as Appendix G to this Draft EIR.

### 3.13.1 Environmental Setting

#### 3.13.1.1 *Background Information*

**Noise**

Factors that influence sound as it is perceived by the human ear, include the actual level of sound, period of exposure, frequencies involved, and fluctuation in the noise level during exposure. Noise is measured on a decibel scale, which serves as an index of loudness. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness. Because the human ear cannot hear all pitches or frequencies, sound levels are frequently adjusted or weighted to correspond to human hearing. This adjusted unit is known as the A-weighted decibel, or dBA.

Since excessive noise levels can adversely affect human activities and human health, federal, state, and local governmental agencies have set forth criteria or planning goals to minimize or avoid these effects. Noise guidelines are generally expressed using one of several noise averaging methods, including $L_{eq}$, DNL, or CNEL.[70] These descriptors are used to measure a location's overall noise exposure, given that there are times when noise levels are higher (e.g., when a jet is taking off from an airport or when a leaf blower is operating) and times when noise levels are lower (e.g., during lulls in traffic flows on freeways or in the middle of the night). $L_{max}$ is the maximum A-weighted noise level during a measurement period.

**Vibration**

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Vibration amplitude can be quantified using Peak Particle Velocity (PPV), which is defined as the maximum instantaneous positive or negative peak of the vibration wave. PPV has been routinely used to measure and assess ground-borne construction vibration. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 inches/second (in/sec) PPV.

#### 3.13.1.2 *Regulatory Framework*

**Federal**

Federal Transit Administration Vibration Limits

The Federal Transit Administration (FTA) has developed vibration impact assessment criteria for evaluating vibration impacts associated with transit projects. The FTA has proposed vibration impact

[70] $L_{eq}$ is a measurement of average energy level intensity of noise over a given period of time. Day-Night Level (DNL) is a 24-hour average of noise levels, with a 10 dB penalty applied to noise occurring between 10:00 PM and 7:00 AM. Community Noise Equivalent Level (CNEL) includes an additional 5 dB applied to noise occurring between 7:00 PM and 10:00 PM. Where traffic noise predominates, the CNEL and DNL are typically within 2 dBA of the peak-hour $L_{eq}$.

criteria based on maximum overall levels for a single event. The impact criteria for groundborne vibration are shown in Table 3.13-1 below. There are established 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). These criteria can be applied to development projects in jurisdictions that lack vibration impact standards.

**Table 3.13-1: Groundborne Vibration Impact Criteria**

| Land Use Category | Groundborne Vibration Impact Levels (VdB inch/sec) | | |
|---|---|---|---|
| | **Frequent Event** | **Occasional Events** | **Infrequent Events** |
| **Category 1:** Buildings where vibration would interfere with interior operations | 65 | 65 | 65 |
| **Category 2:** Residences and buildings where people normally sleep | 72 | 75 | 80 |
| **Category 3:** Institutional land uses with primarily daytime use | 75 | 78 | 83 |

Source: Federal Transit Administration. *Transit Noise and Vibration Assessment Manual.* September 2018.

## State and Local

California Building Standards Code

The CBC establishes uniform minimum noise insulation performance standards to protect persons within new buildings housing people, including hotels, motels, dormitories, apartments, and dwellings other than single-family residences. Title 24 mandates that interior noise levels attributable to exterior sources do not exceed 45 $L_{dn}$/CNEL in any habitable room. Exterior windows must have a minimum Sound Transmission Class (STC) of 40 or Outdoor-Indoor Transmission Class (OITC) of 30 when the property falls within the 65 dBA DNL noise contour for a freeway or expressway, railroad, or industrial source.

California Green Building Standards Code

For commercial uses, CalGreen (Section 5.507.4.1 and 5.507.4.2) requires that wall and roof-ceiling assemblies exposed to the adjacent roadways have a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 when the commercial property falls within the 65 dBA $L_{dn}$ or greater noise contour for a freeway or expressway, railroad, or industrial or stationary noise source. The State requires interior noise levels to be maintained at 50 dBA $L_{eq(1\text{-}hr)}$ or less during hours of operation at a proposed commercial use.

Envision San José General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to noise and vibration and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 3.13-2 below.

**Envision San José 2040 Relevant Noise Policies**

| Policies | Description |
|---|---|
| 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:<br><u>Interior Noise Levels</u><br>• 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.<br><u>Exterior Noise Levels</u><br>• The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses [refer to Table EC-1 in the General Plan or Table 3.13-2 in this EIR]. The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below:<br>  • For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments. |
| EC-1.2 | Minimize the noise impacts of new development on land uses sensitive to increased noise levels [Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 3.13-2 in this EIR] 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:<br>• Cause the DNL at noise sensitive receptors to increase by 5 dBA DNL or more where the noise levels would remain "Normally Acceptable"; or<br>• Cause the DNL at noise sensitive receptors to increase by 3 dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level. |

| | |
|---|---|
| EC-1.3 | Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses. |
| EC-1.6 | Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code. |
| EC-1.7 | Require construction operations within San José to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:<br>• 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.<br>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. |
| 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 potential for cosmetic damage at buildings of normal conventional construction. |

**Table 3.13-2: General Plan Land Use Compatibility Guidelines**

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

Notes: [1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

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

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

**Unacceptable:**
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

City of San José Municipal Code

The Municipal Code restricts construction hours within 500 feet of a residential unit to 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.[71]

The Zoning Ordinance limits noise levels to 55 dBA $L_{eq}$ at any residential property line and 60 dBA $L_{eq}$ at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 AM to 7:00PM, Monday through Friday.

### 3.13.1.3 *Existing Conditions*

The noise environment at the site and in the project vicinity is dominated by traffic noise along SR 85 and Blossom Hill Road. Frequent aircraft overflights associated with nearby airports (i.e., Norman Y. Mineta San José International Airport and Reid Hillview Airport) also contribute to the noise environment.

[71] The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

Due to the Shelter-in-Place restrictions implemented by the State of California at the time of preparing this Draft EIR, traffic volumes and resulting noise levels along the surrounding roadways were substantially reduced and not representative of typical conditions. Therefore, noise data contained in the Envision San José 2040 General Plan Draft EIR and measurements from prior projects were reviewed to establish existing ambient noise levels in the project area. A summary of the noise levels from these prior studies is included in Table 3.13-3 below.

**Table 3.13-3: Summary of Short-term Noise Measurement Data**

| Noise Measurement Location | Date, Time | dBA CNEL | Daytime dBA $L_{eq}$ | Nighttime dBA $L_{eq}$ |
|---|---|---|---|---|
| **General Plan Update Draft EIR Noise Measurements** | | | | |
| 75 ft from centerline of the nearest lane along SR 85 | 2008 | 77 | -- | -- |
| 75 ft from centerline Blossom Hill Road | 2008 | 70 | -- | -- |
| **Housing Element Update Third Phase – Noise Measurements** | | | | |
| 170 feet from centerline of the nearest southbound lane along SR 85 | 10/18/2003 – 10/22/2003 | 73 – 74 | 63 – 68 | 55 – 66 |
| **397 Blossom Hill Road Project – Noise Measurements** | | | | |
| 65 feet from centerline of Blossom Hill Road | 10/05/2018 – 10/10/2018 | 72 – 73 | 63 – 72 | 58 – 70 |
| **Federal Highway Administration Traffic Noise Model – Noise Estimates** | | | | |
| 75 feet from centerline of nearest southbound through lane of SR 85 | 2020 | 78 | -- | -- |
| 75 feet from centerline of Blossom Hill Road | 2020 | 72 | -- | -- |

Source: Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Project Noise and Vibration Assessment.* January 31, 2022.

### 3.13.2 Impact Discussion

For the purpose of determining the significance of the project's impact on noise, would the project result in:

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

b) Generation of excessive groundborne vibration or groundborne noise levels?

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

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A 3.0 dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Per City of San José Policy EC-1.2, project generated noise level increases of 3.0 dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the "Normally Acceptable" noise level standard. Where noise levels will remain at or below the "Normally Acceptable" noise level standard with the project, a noise level increase of 5.0 dBA DNL or greater is considered significant.

### 3.13.2.1 *Project Impacts*

**a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

**Construction Noise**

Construction Noise in Relation to Applicable City Local Limits

Policy EC-1.7 of the City's General Plan requires that all construction activities within the City use best available noise suppression devices and techniques and to limit construction hours near residential uses per the Municipal Code, which are between 7:00 AM and 7:00 PM on weekdays when construction occurs within 500 feet of a residential land use. Further, the City considers a significant construction noise impact to occur if a project is located within 500 feet of a residential use or 200 feet of a commercial or office use and would involve substantial noise-generating activities continuing for a period of more than 12 months.

As noted in Section 2.0 Project Information and Description, project construction would occur from 7:00 AM to 7:00 PM Monday through Saturday. While no construction is expected to occur during nighttime hours, a permit from the City would be required to operate outside the allowable hours.[72] The proposed mixed-use development would be located approximately 145 feet and 120 feet east of the nearest residential and commercial uses, respectively. The proposed trail improvements would be located approximately 83 and feet and 69 feet from the nearest residential and commercial uses, respectively. Project construction is expected to last for a period of approximately two years. Because project construction is expected to exceed one year in

[72] Per Municipal Code Section 20.100.450, a permit is required for all construction within 500 feet of a residential unit, that would occur outside of the hours of 7:00AM to 7:00 PM Monday through Friday. A request for these extended construction hours will be included in the Special Use Permit for the project.

duration and is located within 500 feet of existing residential uses, the project would result in a significant construction impact.

**Impact NOI-1:** Project construction would occur for more than one year and be located within 500 feet of residential uses, exceeding the City's threshold of significance for construction noise impacts.

**Mitigation Measures:** The project would implement the following mitigation measures to reduce noise impacts related to project construction.

**MM NOI-1.1:** Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator to respond 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. The noise disturbance coordinator shall be in place prior to the start of construction. The noise logistic plan shall be signed by a qualified acoustical specialist verifying that this plan meets the reduction to noise levels and shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

As a part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- In accordance with Policy EC-1.7 of the City's General Plan, use the best available noise suppression devices and techniques during construction activities.
- Use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. Equip all internal combustion engines with adequate mufflers and maintain all equipment in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses.
- Erect temporary noise barrier fences that would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- If stationary noise-generating equipment must be located near receptors, provide adequate muffling (with enclosures where feasible and appropriate). Face any enclosure openings or venting away from sensitive receptors.
- Ensure that generators, compressors, and pumps are housed in acoustical enclosures

- During final grading, substitute graders for bulldozers, where feasible. Use wheeled heavy equipment which are quieter than track equipment, where feasible.
- Substitute nail guns for manual hammering, where feasible.
- Substitute electrically powered tools for noisier pneumatic tools, where feasible
- Prohibit unnecessary idling of internal combustion engines.
- Locate staging areas and stationary noise-generating equipment, including but not limited to cranes, as far as possible from noise-sensitive receptors, such as residential uses (a minimum of 200 feet)
- The surrounding neighbors within 500 feet of the project site shall be notified two weeks prior to the start of each construction phase: and the notice shall include how to report complaints of excessive noise.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site.

With the implementation of GP Policy EC-1.7, Municipal Code requirements, and the above mitigation measure, the construction noise impact would be reduced to a less than significant level.

**Operational Noise**

Mechanical Equipment Noise

The proposed mixed-use development would include mechanical equipment such as heating, ventilation, and air conditioning systems (HVAC). No mechanical equipment is proposed with the trail improvements. Although the exact location, size, and number of mechanical equipment required for the proposed residential and commercial uses was not available at the time of this analysis, the site plan does include small electrical and mechanical rooms on the first and second floors of Building A and on the first floor of Building B. It is expected that HVAC and other mechanical equipment for the proposed residential and commercial uses would be located on the rooftop.

Noise levels generated by HVAC mechanical equipment typical for residential and mixed-use buildings of this size range from 56 dBA to 66 dBA at three feet during operation. Due to the size of the proposed project, it is estimated that multiple pieces of equipment would be required and would operate simultaneously at any given time. Mechanical equipment noise levels at the nearby sensitive receptors are summarized in Table 3.13-4.

| Table 3.13-4: Estimated Mechanical Equipment Noise at Nearby Sensitive Receptors | | | |
|---|---|---|---|
| **Receptor** | **Distance from Noise Source (feet)** | **Hourly Average (dBA $L_{eq}$)** | **Day-Night Average Noise Level (dBA DNL)** |
| Commercial uses to the west | 120 | 42 | 48 |
| Residential uses to the west | 150 - 170 | 39 - 40 | 46 -47 |
| Residential and Medical uses to the south | 145 | 41 | 47 |
| Residential uses to the southeast | 270 | 35 | 42 |
| Medical use to the southwest | 185 | 38 | 45 |
| Residential uses to the northeast | 470 | 30 | 37 |
| Source: Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Project Noise and Vibration Analysis.* January 31, 2021. | | | |

As shown in Table 3.13-4, the maximum project generated mechanical equipment noise would be 48 dBA DNL at the nearest commercial use, and 47 dBA DNL at the nearest residential use, which is below the City's requirement of 55 dBA DNL at residential property lines and 60 dBA DNL at commercial property lines. Thus, the project would not result in a substantial permanent increase in noise levels from operation of mechanical equipment and impacts would be less than significant.

Truck Loading and Unloading Activities Noise

Delivery and truck loading activities would occur within the mixed-use development portion of the project site at loading zones and drop off/pick-up areas along the western façade of Building A and the eastern façade of Building B along the entrance driveway. Garbage trucks would access the site via the main driveway before turning right and following the northern façade of Building A the loading area and trash room facing SR 85.

Based on the size of the commercial uses proposed for this project, it is expected that smaller medium-sized delivery trucks would be used at the site. These trucks typically generate maximum noise levels of 60 to 65 dBA $l_{max}$ at a distance of 50 feet. Noise levels produced by back up alarms can vary depending on the type and directivity of the sound but typically range from 65 to 75 dBA $L_{max}$ at a distance of 50 feet. Truck loading and unloading noise associated with the proposed mixed-use development would be 48 dBA $L_{eq}$ and 37 dBA DNL at the nearest residential property line. Thus, project generated truck activities would not exceed 55 dBA DNL or existing ambient conditions at the nearest residential property line and impacts would be less than significant.

Parking Lot Noise

As noted in Section 3.17, Transportation, the mixed-use development would result in 1,768 peak hour trips at the project site. The proposed trail improvements would not generate vehicle trips independent of the proposed mixed-use development. The project would eliminate 330 existing surface parking spaces, and future residents and employees of the proposed project would park primarily in the proposed parking garage. Therefore, although the proposed project would increase the number of residents and employees on-site compared to existing conditions, on-site parking lot activity would not increase such that it would result in a perceptible increase in parking lot noise. For

these reasons, the proposed project and trail improvements would not result in the exposure of off-site sensitive receptors to noise levels in excess of the City's General Plan or Municipal Code and impacts would be less than significant.

Traffic Noise

Based on the General Plan Safety and Noise Policy 7.2, a significant impact would occur if the permanent noise level increase due to project-generated traffic was 3 dBA CNEL and exceeded the "normally acceptable" level of 60 dBA or if the noise level increase from the project was 5 dBA CNEL or greater and remained within the "normally acceptable" range.

Future 2035 noise levels at the nearest sensitive receptor (residential uses approximately 120 feet west of the project site) were estimated to be in excess of 60 dBA DNL. Thus, if project-generated traffic noise would increase by three decibels or more (equal to a doubling of traffic on local roadways), impacts would be significant. The traffic study prepared for the proposed project concluded that project-generated traffic would not double over existing conditions on local roadways and, therefore, the proposed project would not result in a significant permanent noise increase. This is a less than significant impact.

Trail Improvements

Operation of the proposed trail improvements would include people bicycling, walking, and jogging. These types of activities would be considered a part of the ambient noise environment and are not subject to noise control standards. Further, traffic noise from SR 85 would mask any noise generated along the trail. Thus, operation of the proposed trail improvements would not exceed 55 dBA DNL at the surrounding residential property lines and would not exceed existing ambient noise levels. This is a less than significant impact.

**(Less Than Significant Impact with Mitigation)**

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

Construction of the proposed mixed-use development may generate perceptible vibration when heavy equipment or impact tools (e.g., jackhammers, hoe rams) are used in the vicinity of nearby sensitive land uses. As discussed in the response to checklist question a, construction activities would include site demolition work, preparation work, excavation, foundation work, and new building framing and finishing. Impact pile driving (which generates substantial vibration) is not proposed as a method of construction.

According to General Plan Policy EC-2.3, a continuous vibration limit of 0.2 in/sec PPV is used to minimize damage at buildings of conventional construction and a continuous vibration limit of 0.08 in/sec PPV is used to minimize the potential for cosmetic damage to historical structures. The vibration limits contained in this policy are conservative and designed to provide the ultimate level of protection for existing buildings in San José.

A review of the City of San José Historical Resources Inventory identified Cottle Ranch, located at 5285 Snell Avenue, approximately 4,000 feet from the project site, as the only historic resource in the site vicinity.

Based on the noise and vibration assessment prepared for the project, construction of the project would not generate vibration levels exceeding the General Plan threshold of 0.08 in/sec PPV at the nearest historic property (located 4,000 feet from the project site). Additionally, maximum vibration levels at the nearest non-historical building would be 0.068 in/sec PPV, which would not exceed the City's 0.2 in/sec PPV threshold for buildings of conventional construction. For these reasons, the project would not result in generation of excessive ground borne vibration or ground borne noise and impacts would be less than significant.

Trail Improvements

Construction of the proposed trail improvements would include use of heavy equipment or impact tools (e.g., jackhammers, hoe rams) which may generate groundborne vibration and noise in the vicinity of nearby sensitive uses. The proposed trail improvements would be constructed approximately 35 feet from the nearest commercial and residential buildings. Construction vibration levels at this distance would be at or below 0.145 in/sec PPV. Therefore, the proposed trail improvements would not result in vibration levels exceeding the City's threshold of 0.2 in/sec PPV for non-historical buildings. This would be a less than significant impact.

**(Less Than Significant Impact)**

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

The nearest airports to the site are the Reid-Hillview Airport, located approximately six miles northeast of the project site (including the area of the proposed mixed-use development and trail improvements), and the Norman Y. Mineta San José International Airport, approximately eight miles north of the site. The project site (including the area of the proposed mixed-use development and trail improvements) is not located within an adopted AIA and is not located within two miles of an airport. The project would be located outside the noise contour levels of 60 and 65 dBA CNEL for the Reid-Hillview and San José airports, respectively.[73] As a result, the project would not expose people residing or working in the project area to excessive noise levels, no impact.

**(No Impact)**

### 3.13.2.2 *Cumulative Impacts*

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

[73] City of San José. *Integrated Final Environmental Impact Report, Amendment to Norman Y. Mineta San José International Airport Master Plan.* April 2020; and County of Santa Clara. *Comprehensive Land Use Plan, Reid-Hillview Airport.* November 2016. Page 3-7.

The geographic area for cumulative noise and vibration impacts is the project site and adjacent parcels, since the effects of noise and vibration by their nature are localized and could only affect this geographic area.

Construction noise and vibration have the potential to add to construction noise occurring at other sites within approximately 500 feet from the source; therefore, the geographic area for construction noise is identified as locations within 500 feet of the project sites. Project operation noise has the potential to add to operational noises at other sites within approximately 300 feet from the source; therefore, the geographic area for cumulative operational noise impacts with the project is 300 feet from the project sites. For traffic noise, the geographic area is identified as the surrounding roadway network.

No cumulative projects are located within 500 feet of the project site that would contribute to a cumulative construction or operational noise impact with the project (refer to Table 3.0 1). Therefore, the project would not contribute to a significant cumulative increase in temporary ambient noise levels. As discussed above under checklist question b), construction of the project would not result in the generation of excessive ground borne vibration or ground borne noise. Therefore, the project would not contribute to a significant cumulative groundborne vibration impact.

As discussed under checklist question a), the project, on its own, would not result in a permanent 3 dBA DNL increase in ambient noise levels, and would not substantially increase ambient noise levels as defined by General Plan Policy EC-1.2. Build out under the General Plan would increase vehicular traffic on roadways in the City and over time traffic noise levels would increase. None of the roadways in the vicinity of the project site are identified in the General Plan FEIR as roadways where noise levels would increase by 3 dBA DNL or more, under build out of the General Plan. Therefore, the project would not contribute to a significant cumulative increase in traffic-generated noise.

As discussed above under checklist question c), the project would have no impact (and therefore, no cumulative impact) related to exposing people residing or working in the project area to excessive noise levels due to airport operations.

For the reasons described above, the project would have a less than significant cumulative noise impact.

**(Less than Significant Cumulative Impact)**

### 3.13.3 Non-CEQA Effects

Per California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4h 369 (BIA v. BAAQMD), effects of the environment on a project are not considered CEQA impacts. The following discussion is included for informational purposes only because the City of San Jose has policies that address existing noise conditions affecting a proposed project.

The proposed development would be located in an urban area along a major thoroughfare (i.e., Blossom Hill Road). Exterior use areas would include residential outdoor use areas (transit plaza, public trail and trailhead plaza, dog walk area, Building B ground floor amenity space, neighborhood

amenities space, outdoor courtyard on Level 3 of Building A, and two decks along the eastern and southern facades of Building A) and a commercial outdoor use area (retail plaza).

As discussed in Section 3.13.1.3, the primary noise source affecting the proposed exterior use areas would be traffic on SR 85 and Blossom Hill Road.

**Residential Outdoor Use Areas**

As shown in Figure 2.2-4, the proposed project includes several outdoor use areas adjacent to and within Buildings A and B. Future exterior noise levels at these residential outdoor use areas would range from 75 dBA at the deck along the eastern façade of Building A to below 50 dBA at the podium deck of Building A. Therefore, the following measures shall be incorporated as Conditions of Approval on the project to reduce noise levels at proposed residential outdoor use areas to below the City's threshold of 60 dBA.

Standard Permit Condition:

- Prior to the issuance of any building permit, the project applicant shall ensure all outdoor use areas achieve future exterior noise levels at or below the City's "normally acceptable" threshold of 60 dBA DNL at the center of the spaces where reasonably achievable. For common outdoor use areas where 60 dBA DNL is not reasonably achievable, measures shall be incorporated to achieve reasonable "conditionally acceptable" noise levels at the centers of the outdoor use spaces.

- The project applicant shall retain a qualified acoustical consultant to review the final site plan in order to determine specific noise reduction measures to meet the City's requirements. Noise reduction measures could include increased setbacks, using the proposed building façades as noise barriers, the construction of traditional noise barriers, or a combination of these methods. The applicant's retained qualified acoustical consultant shall prepare a detailed acoustical study during final building design to evaluate the land use compatibility of the proposed common use outdoor spaces with the future noise environment at the site and to identify the necessary noise controls that are included in the design to meet the City's requirements. The study shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee prior to issuance of any building permit.

**Condition of Approval:** The following measures are recommended to reduce future exterior noise levels at proposed residential outdoor use areas on the project site.

- **Fenced Dog Walk:** Construct a noise barrier or specially designed fence along the perimeter of the dog walk area. The barrier will be located around the perimeter of the dog walk, attaching to Building A at both ends. The barrier shall be continuous from grade to top, with no cracks or gaps, and be constructed from materials having a minimum surface density of 3 lbs/square foot (e.g., one-inch nominal thickness wood fence boards, ½-inch laminated glass, masonry clock, or concrete masonry units (CMU)). Installation of an eight-foot barrier would reduce future exterior noise levels to 65 dBA DNL which would be within the City's conditionally acceptable range for outdoor residential uses.

- **Neighborhood Amenity Space (Building A):** With partial shielding from the building, this use area would have an ambient noise level 65 dBA DNL. This is within the City's conditionally acceptable range and no additional noise attenuation is required.

  If, however, the City would require the outdoor use area to reduce noise levels an acceptable level of 60 dBA DNL, a 10-foot barrier enclosing the space shall be required.

- **Building B Amenity Space:**
  With partial shielding from the building, this use area would have an ambient noise level 65 dBA DNL. This is within the City's conditionally acceptable range and no additional noise attenuation is required.

  If, however, the City would require the outdoor use area to reduce noise levels to an acceptable level of 60 dBA DNL, a six-foot barrier enclosing the space shall be required.

- **Deck Area Along the Eastern Façade of Building A:** A barrier shall be constructed along the perimeter of the third-floor deck, attaching to the building at both ends. The barrier shall be continuous from grade to top, with no cracks or gaps, and be constructed from materials having a minimum surface density of 3 lbs/square foot. Material to be clear plexiglass or similar, or to be consistent with and complementary to the building color and materials.

  To achieve 60 dBA DNL, a barrier height of 10 feet is required due to the direct line-of-sight to SR 85; however, this area is a relatively small space, and a barrier height of 10 feet would affect the aesthetic appeal. With the implementation of a six-foot barrier, noise levels would reduce to below 65 dBA DNL, which is within the range of "conditionally acceptable" noise levels.

- **Deck Area Along the Southern Façade of Building A:** A six-foot barrier is required that enclosing the area. The barrier would reduce noise levels at this south-facing deck to below 60 dBA DNL.

With implementation of the above Standard Permit Condition and Condition of Approval, exterior noise levels would be reduced to 70 dBA DNL or less, consistent with General Plan Policy EC-1.1.

**Commercial Outdoor Use Area**

The proposed project would include an outdoor dining area associated with proposed commercial uses along the southern and eastern facades of Building A. Future noise levels at this outdoor commercial use area would be 72 dBA which would exceed the City's threshold of 70 dBA for outdoor commercial uses. Therefore, the following improvements shall be incorporated into the project as Conditions of Approval to reduce noise levels at the proposed commercial outdoor use area.

**Condition of Approval:**

- Limit the outdoor dining area to the eastern side of Building A only, with a maximum setback of 100 feet from Blossom Hill Road. With implementation of this measure, noise levels would be below 70 dBA DNL.

With implementation of the Condition of Approval and Standard Permit Condition, exterior noise levels would be reduced to 70 dBA DNL or less, consistent with General Plan Policy EC-1.1.

**Residential Uses – Interior Space**

Future noise levels would be 72-73 dBA DNL at the southern façades of Buildings A and B, 72-77 dBA DNL at the eastern and northern façade of Building A, 65-72 dBA DNL at the western façade of Building B, 65-68 dBA at the norther façade of Building B, 65-70 dBA DNL at the units facing the driveway on Building A and Building B and less than 60 dBA on units facing the podium deck of building A. With windows partially open, interior noise levels would be 57-58 dBA DNL at the southern façades of Buildings A and B, 57-62 dBA DNL at the eastern and northern façade of Building A, 50-57 dBA DNL at the western façade of Building B, 50-53 dBA at the norther façade of Building B, 50-61 dBA DNL at the units facing the driveway on Building A and Building B, and less than 45 dBA on units facing the podium deck of Building A. Thus, interior noise levels would exceed the City's threshold of 45 dBA DNL for residential uses and the following measures should be incorporated into the project as Conditions of Approval to reduce interior noise levels below 45 dBA DNL.

Standard Permit Condition:

- The project applicant shall prepare final design plans that incorporate building design and acoustical treatments with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce ambient interior noise levels to 45 dBA DNL or lower and to achieve the instantaneous noise objective of 50 dBA $L_{max}$ in bedrooms and 55 dBA $L_{max}$ in other rooms within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

**Condition of Approval:** The following noise insulation features shall be incorporated into the proposed project to reduce interior noise levels to 45 dBA DNL or less at residential interiors:

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.

- Preliminary calculations indicate that residential units along the façades of Buildings A and B shall require windows and doors with the minimum STC ratings summarized in Table 5, as well as the incorporation of adequate forced-air mechanical ventilation to meet the interior noise threshold of 45 dBA DNL.

The implementation of the above Condition of Approval interior noise levels would be reduced to 45 dBA DNL or less.

With implementation of the Standard Permit Condition and Conditions of Approval listed above, interior noise levels would be reduced to 45 dBA DNL or less, consistent with General Plan Policy EC-1.1.

### Commercial Uses

The commercial uses would be located on the ground floor of Building A along the southern and eastern façades. Exterior noise levels at these facades are estimated to range from 72 to 73 dBA DNL. Standard construction materials for commercial uses would provide about 25 dBA of noise reduction in interior spaces and inclusion of adequate forced air mechanical ventilation would further reduce interior noise levels by approximately 5 dBA. Therefore, it assumed that interior noise levels at the proposed commercial uses would be between 42 and 43 dBA DNL with windows closed which is below the City's interior noise threshold for commercial uses. Interior noise levels at the proposed commercial uses would not exceed the City's threshold for commercial uses and no additional measures are required.

## 3.14 POPULATION AND HOUSING

Public comments received during the NOP scoping process pertained to the population of the affordable housing units, the potential for homeless problems to exacerbate, and populations for area median incomes. The population generated by the proposed project is discussed in Section 3.14.2.1 below. The topics of homelessness and income levels are not discussed in this EIR as these issues are not considered under CEQA.

### 3.14.1 Environmental Setting

#### 3.14.1.1 *Regulatory Framework*

**State**

Housing-Element Law

State requirements mandating that housing be included as an element of each jurisdiction's general plan is known as housing-element law. The Regional Housing Need Allocation (RHNA) is the State-mandated process to identify the total number of dwelling units (by affordability level) that each jurisdiction must accommodate in its housing element. California housing-element law requires cities to: 1) zone adequate lands to accommodate its RHNA; 2) produce an inventory of sites that can accommodate its share of the RHNA; 3) identify governmental and non-governmental constraints to residential development; 4) develop strategies and a work plan to mitigate or eliminate those constraints; and 5) adopt a housing element and update it on a regular basis.[74] The City of San José Housing Element and related land use policies were last updated in 2014.

**Regional and Local**

Plan Bay Area 2040

Plan Bay Area 2040 is a long-range transportation, land-use, and housing plan intended support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution and GHG emissions in the Bay Area. Plan Bay Area 2040 promotes compact, mixed-use residential and commercial neighborhoods near transit, particularly within identified PDAs.[75]

ABAG allocates regional housing needs to each city and county within the nine-county San Francisco Bay Area, based on statewide goals. ABAG also develops forecasts for population, households, and economic activity in the Bay Area. ABAG, MTC, and local jurisdiction planning staff created the Regional Forecast of Jobs, Population, and Housing, which is an integrated land use and transportation plan through the year 2040 (upon which Plan Bay Area 2040 is based).

[74] California Department of Housing and Community Development. "Regional Housing Needs Allocation and Housing Elements" Accessed September 16, 2020. http://hcd.ca.gov/community-development/housing-element/index.shtml.
[75] Association of Bay Area Governments and Metropolitan Transportation Commission. "Project Mapper." http://files.mtc.ca.gov/library/pub/30060.pdf.

### 3.14.1.2 *Existing Conditions*

The population of San José was estimated to be approximately 945,942 in May 2020 with an average of 3.10 persons per household.[76] Full build out of the General Plan FEIR (as amended) is expected to result in a City population of over 1.3 million people by 2035.

The General Plan assumptions, as amended in the first Four-Year Review in 2016, envision a Jobs/Employee Resident ratio of 1.1/1 or 382,200 new jobs by 2040.[77] To meet the current and projected housing needs in the City, the Envision San José 2040 General Plan identifies areas for mixed-use and residential development to accommodate 120,000 new dwelling units by 2040.

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

At the time of preparation of the Envision San José 2040 General Plan FEIR, San José had a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build out under the current General Plan.

The project site is currently developed with a bus stop, light rail station, and parking lot. There are no existing on-site residences or employment uses.

## 3.14.2 Impact Discussion

For the purpose of determining the significance of the project's impact on population and housing, would the project:

a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

[76] State of California, Department of Finance. "E-5 Population and Housing Estimates for Cities, Counties, and the State, 2011-2020." Accessed September 16, 2020. http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-5/.
[77] City of San José. *Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Program Environmental Impact Report*. November 2016.

### 3.14.2.1 *Project Impacts*

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

The proposed project would remove an existing surface parking lot and construct two new mixed-use and residential buildings (containing up to 328 dwelling units and up to 13,590 square feet of commercial space), landscaping, and trail improvements. Assuming the City average household size of 3.10 people per dwelling unit, the proposed 328 new dwelling units would generate an estimated 1,017 residents.[78] Additionally, based on the City of San José Employment Density and Floor Area Ratio Assumptions by Land Use Type, the proposed commercial space would generate 90 employees.[79] The proposed project and trail improvements are consistent with the existing General Plan land use designation, and, therefore, would not result in a substantial increase in the City's current or projected population. Furthermore, the proposed project would be consistent with the City's General Plan housing goals, including: (1) providing housing in a range of housing densities, especially higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population; (2) increasing, preserving, and improving San José's affordable housing stock; (3) creating and maintaining safe and high quality housing that contributes to the creation of great neighborhoods and great places; and (4) providing housing that minimizes the consumption of natural resources and advances the City's fiscal, climate change, and environmental goals. The project would not extend a road or other infrastructure that would indirectly induce growth and impacts would be less than significant.

**(Less than Significant Impact)**

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

The project would replace approximately 128,838 square feet of surface parking with up to 328 new dwelling units and up to 13,590 square feet of retail space. Development of the proposed trail improvements would occur adjacent to Canoas Creek on currently undeveloped land. No dwelling units would be displaced as a result of the proposed project. Thus, construction of replacement housing elsewhere is not warranted and there would be no impact.

**(No Impact)**

### 3.14.2.2 *Cumulative Impacts*

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

[78] The proposed dwelling units would include Single Occupancy Units (i.e., one-bedrooms, and studio units), which are anticipated to have smaller household sizes than the Citywide average; nonetheless, this analysis conservatively estimates 3.10 persons per household.

[79] Strategic Economics. *San José Market Overview and Employment Land Analysis*. January 2016. https://www.sanjoseca.gov/home/showdocument?id=22529

The geographic area for cumulative population and housing impacts is the City of San José.

As discussed above under checklist question a), the growth anticipated as a result of the project is within the planned growth of the General Plan, and the project does not include extending infrastructure or removing obstacles that would result in unplanned growth. Cumulative projects in the City could potentially remove housing and/or facilitate unplanned growth; however, the General Plan FEIR determined that planned build out to 2040 would utilize existing areas within the City's Urban Growth Boundary to increase residential development. New housing developments as part of the General Plan build out will focus on an intensification of land use in already developed areas. For these reasons, the project would not result in cumulatively significant unplanned population growth.

As discussed above under checklist question b), the project would not displace residents. For this reason, the project would not contribute to a cumulative significant displacement of residents necessitating the construction of replacement housing.

For these reasons, the project would not have a cumulatively considerable contribution to a significant cumulative unplanned population growth in the area.

**(No Cumulative Impact)**

## 3.15 PUBLIC SERVICES

Public comments received during the NOP scoping process pertained to the safety concerns on the proposed trail connections as well as safety of school children traveling to school. Potential conflicts with the circulation system (including pedestrians and bicyclists) are addressed in Section 3.17.2.1 of this EIR. Adequacy of police protection services is discussed in Section 3.15.2.1 below.

### 3.15.1 Environmental Setting

#### 3.15.1.1 *Regulatory Framework*

**State**

Government Code Section 66477

The Quimby Act (included within Government Code Section 66477) requires local governments to set aside parkland and open space for recreational purposes. It provides provisions for the dedication of parkland and/or payment of fees in lieu of parkland dedication to help mitigate the impacts from new residential developments. The Quimby Act authorizes local governments to establish ordinances requiring developers of new residential subdivisions to dedicate parks, pay a fee in lieu of parkland dedication, or perform a combination of the two.

Government Code Section 65995 through 65998

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

Developers are required to pay a school impact fee to the school district to offset the increased demands on school facilities caused by the proposed residential development project. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

**Regional and Local**

Countywide Trails Master Plan

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

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, Municipal Code Chapter 14.25), requiring new residential development to either dedicate sufficient land to serve new residents or pay fees to offset the increased costs of providing new park facilities for new development. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects exceeding 50 units, the City decides whether the project will dedicate land for a new public park site, improvements to an existing park or trail, provide a fee in-lieu of land dedication, or a combination of the three. Affordable housing including low, very-low, and extremely low income units are subject to the PDO and PIO at a rate of 50 percent of applicable parkland obligation. The acreage of parkland required is based on the minimum acreage dedication formula outlined in the PDO.

Envision San José 2040 General Plan

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

**Envision San José 2040 Relevant Public Service Policies**

| Policies | Description |
|---|---|
| FS-5.7 | Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition. |
| ES-2.2 | Construct and maintain architecturally attractive, durable, resource-efficient, and environmentally healthful library facilities to minimize operating costs, foster learning, and express in built form the significant civic functions and spaces that libraries provide for the San José community. Library design should anticipate and build in flexibility to accommodate evolving community needs and evolving methods for providing the community with access to information sources. Provide at least 0.59 square feet of space per capita in library facilities. |
| ES-3.1 | Provide rapid and timely Level of Service response time to all emergencies:<br>1. For police protection, use as a goal a response time of six minutes or less for 60 percent of all Priority 1 calls, and of eleven minutes or less for 60 percent of all Priority 2 calls.<br>2. For fire protection, use as a goal a total response time (reflex) of eight minutes and a total travel time of four minutes for 80 percent of emergency incidents. |
| ES-3.9 | Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publicly visible and accessible spaces. |
| ES-3.11 | 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. |

| | |
|---|---|
| PR-1.1 | Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents. |
| 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. |
| PR-1.12 | Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities. |
| 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. |
| PR-2.5 | Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sports fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds. |

Greenprint

To implement the park and recreation policies of the General Plan, the 2000 Greenprint was adopted by the San José City Council in September 2000 to provide staff and decision makers with a strategic plan for expanding recreation opportunities in the City. The 2000 Greenprint identified areas of the City that were underserved by park and recreation facilities and included policies and strategies to correct those deficiencies through the development of additional facilities in those locations. The City adopted the 2009 Greenprint as an update to the 2000 version. The City is currently in the process of another revision to the plan known as Greenprint Update 2018.

Martial Cottle Master Plan

The Martial Cottle Master Plan provides guidelines and policies for the development, operation, and maintenance of both the State-owned and County-owned portions of the park. The Master Plan establishes a broad vision and long-term direction for the park, as well as the specific implementation policies and guidelines that will guide the County in manifesting the vision for the park.

### 3.15.1.2 *Existing Conditions*

**Fire Protection Services**

Fire protection services for the project site are provided by the 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 San José Fire Department Station #35 located at 135 Poughkeepsie Road, approximately 1.2 miles east of the project site.[80]

The General Plan identifies a service goal of a total response time of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

[80] San José Fire Department. *Stations.* Accessed September 16, 2020. https://www.sanjoseca.gov/your-government/departments-offices/fire/stations.

## Police Protection 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 eight miles north of the project site. SJPD is divided into four geographic divisions: Central, Western, Foothill, and Southern.[81] The project site is directly served by the SJPD Southern Division. The division consists of four patrol districts, and the project site is in District Y.

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 all Priority 2 (nonemergency) calls.

## Schools

The project site (including the area of the proposed mixed-use development and trail improvements) is located within the attendance boundaries of the Oak Grove School District (which serves students from pre-Kindergarten through eighth grade) and East Side Union High School District (which primarily serves students from the ninth grade through 12th grade).[82] Students in the project area attend Earl Frost Elementary School (grades kindergarten through sixth grade), located at 630 Gettysburg Drive approximately 0.25 miles southeast of the site, Leonard Herman Intermediate (sixth through eighth grades), located at 5955 Blossom Hill Avenue approximately 0.8 miles south of the site, and Oak Grove High School (ninth through 12th grades), located at 285 Blossom Hill Road approximately one-mile east of the project site.[83] The enrollment of Earl Frost Elementary in Fall 2019/ Spring 2020 was 668 students, and the enrollment of Leonard Herman Intermediate School was 818. During the Fall 2019/ Spring 2020, Oak Grove High School had an enrollment of 1,730 students.[84]

The Envision San José 2040 General Plan FPEIR found that East Side Union High School District was operating above capacity by 210 students and that the overall Oak Grove High School District had an available capacity of 2,309 students.[85]

## Parks

### City Parks

The City of San José currently operates 193 regional and city parks and gardens including 60 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.[86]

[81] San José Police Department. *Bureau of Field Operations.* Accessed September 16, 2020. http://www.sjpd.org/bfo/.
[82] City of San José. School Site Locator. Accessed September 16, 2020. Apps.schoolsitelocator.com/25499#
[83] East Side Union High School District. School Boundaries. Accessed September 16, 2020. https://www.esuhd.org/community/School-Boundaries/. Oak Grove School District. *Schools.* Accessed September 16, 2020. https://www.ogsd.net/apps/pages/index.jsp?uREC_ID=586611&type=d&pREC_ID=1248441.
[84] California Department of Education. *DataQuest.* Accessed December 23, 2020. https://dq.cde.ca.gov/dataquest/.
[85] City of San José. *Envision San José 2040 General Plan EIR.* December 2011.
[86] City of San José. "San Jose at-a glance." Accessed April 9, 2021. https://www.sanjose.org/meetings/quick-guides/san-jose-at-a-glance

The nearest public park is Playa Del Rey Park, located at 648 Glenburry Way, approximately 0.55-mile northwest of the project site. Cahalan Park is also located in the project vicinity at 770 Pearlwood Way, 0.6-mile southwest of the project site. The Park includes BBQs, basketball court, soccer field, two softball fields, two tennis courts, three half-sized basketball courts, playgrounds, and restrooms.

Martial Cottle Park

Martial Cottle Park is a 287-acre park jointly owned by the County of Santa Clara and State of California and operated by the Santa Clara County Department of Parks and Recreation. The park is located at 5283 Snell Avenue, approximately 610 feet north of the project site. Martial Cottle Park features trails, green space, and picnic areas. Additionally, 180-acres of the park is preserved for and in active agricultural use for ongoing community education.

**Libraries and Community Centers**

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest public library is the Edenvale Branch Library, located at 101 Branham Lane East, approximately 1.6-miles northeast of the project site. The nearest community center is the Southside Community Center, located at 5585 Cottle Road, 1.9-miles east of the project site.

## 3.15.2 Impact Discussion

For the purpose of determining the significance of the project's impact on public services, would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

a) Fire protection?
b) Police protection?
c) Schools?
d) Parks?
e) Other public facilities?

### 3.15.2.1 *Project Impacts*

**a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services?**

The proposed project would develop the site with residential and commercial uses, and trail improvements and would incrementally increase demand for fire protection services compared to existing conditions. The project is, however, consistent with the General plan and would not preclude

the SJFD from meeting their response time goals and would not require the construction of new or expanded fire facilities. The proposed development would be constructed in accordance with current building codes and SJFD would review project plans to ensure appropriate safety features are incorporated to reduce fire hazards. In accordance with General Plan Policy ES-3.11, the project would provide adequate fire suppression infrastructure including. For these reasons, the project would not result in a significant impact on fire protection services.

**(Less than Significant Impact)**

**b) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection services?**

The project site is currently served by SJPD. Similar to fire protection services, the proposed development would incrementally increase the demand for police protection services at the project site. The incremental increase in police protection services would not require new or expanded police protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times or other performance objectives for police protection services. In addition, SJPD would review the final site design, including proposed landscaping, access, and lighting, to ensure that the project provides adequate safety and security measures. For the reasons discussed above, the project would not result in a significant impact on police protection services.

**(Less than Significant Impact)**

**c) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools?**

The project applicant proposes to construct a mixed-use development with up to 328 dwelling units. The student generation rate for the multi-family attached units is 0.0828 for schools in the East Side Union High School District.[87] Therefore, the proposed project is estimated to generate approximately 27 high school students. Based on the City's General Plan EIR, projects under the General Plan would generate a total of 500 new students for the Oak Grove School District; the District had an available student capacity of 2,309 students. The project is consistent with the General Plan and would not cause an exceedance of student attendee projections in the Oak Grove School District (including Earl Frost Elementary School and Leonard Herman Intermediate School).

The incremental increase of students attending local schools would not require construction of a new school and the project at its building permit stage would be required to pay school impact fees to the affected school district in accordance with California Government Code Section 65996.

[87] City of San José. *Blossom Hill Mixed Use Project Initial Study/ Environmental Assessment.* October 2019.

With implementation of the Standard Permit Conditions, the proposed project would have a less than significant impact on school services and would not, by itself, require new school facilities to be constructed.

**(Less than Significant Impact)**

**d) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks?**

New residents of the site would use existing recreational facilities in the area, including Cahalan Park. The project could generate up to 1,017 new residents (refer to Section 3.14 Population and Housing of this EIR). The new residents would incrementally increase the use of existing recreational facilities in the project area. The proposed project would include amenity spaces which would reduce the use of existing parks by future residents of the proposed project. The project would conform to the City's Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) and the project applicant at the building permit stage would be required to pay the appropriate PDO/PIO fees to the City in accordance with General Plan Policies PR-2.4 and PR-2.5.

With the implementation of Standard Permit Conditions, implementation of the project would not result in significant impacts to park and recreational facilities in San José.

**(Less than Significant Impact)**

**e) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for other public facilities?**

**Libraries and Community Centers**

There are 22 libraries serving neighborhoods located throughout San José. Development approved under the 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 General Plan by the year 2035, which is above the City's service goal. Although the proposed project would increase the use of public facilities such as the Edenvale Branch Library and Southside Community Center, the proposed project would not substantially increase use of San José facilities or otherwise require the construction of new library facilities.

**(Less than Significant Impact)**

### 3.15.2.2 *Cumulative Impacts*

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

The geographic area for cumulative public services impacts is the City of San José. Development in the project area would increase demand on fire and police protection services, schools, and recreational facilities.

The General Plan EIR concluded that implementation of the General Plan would not necessitate the construction of new fire stations. All the cumulative projects within the City of San José are consistent with the growth and development assumed in the General Plan. For these reasons, the cumulative projects would not result in significant cumulative impact to fire protection facilities and services. In addition, all cumulative projects in the City would be constructed in accordance with current building codes and reviewed by SJFD to ensure appropriate safety features are incorporated to reduce fire hazards.

The General Plan EIR concluded that implementation of the General Plan would not result in the need for new standalone police facilities but may require expansion of existing police facilities. All cumulative projects identified in Table 3.0-1 within the City of San José, including the project (under either option), are consistent with the growth assumed in the General Plan and, therefore, would not result in greater impacts than what was identified in the General Plan FEIR. Each project in the City would be required to assess the potential for the project to increase demand for police protection services. SJPD would review the final site design of cumulative projects, including proposed landscaping, access, and lighting, to ensure that the project provides adequate safety and security measures. The construction of any expanded facilities would require environmental review and would not be anticipated to result in significant adverse environmental impacts. Therefore, the project, in combination with other cumulative projects, would not result in a cumulatively considerable impact on police protection services.

As required by state law (Government Code Section 65996), cumulative projects that include residential development (such as the project) are required to implement the City's standard condition for payment of school fees to mitigate the increase in demand on schools generated by new development to a less than significant level. As discussed above under checklist question c) build out under the General Plan would generate a total of 500 new students for the Oak Grove School District; the District had an available student capacity of 2,309 students. Therefore, the cumulative projects (including the project under either option) would not result in a significant cumulative impact on local schools.

The demand on park facilities due to the cumulative projects would be offset by open spaces proposed as part of those cumulative projects and the cumulative projects' implementation of the City's Standard Permit Condition of complying with the PDO/PIO. As previously discussed under checklist question d), the project would comply with the City's PDO/PIO. The cumulative projects (including the project), therefore, would not result in a significant cumulative impact on parks.

The General Plan EIR concluded that existing and planned library facilities would surpass the General Plan service goal of 0.59 square feet of library space per capita under build out of the

General Plan. For this reason, cumulative projects (including the project) would not result in a significant cumulative impact to library facilities.

All cumulative projects would be subject to State, county, and City policies and regulations associated with public services within San José (such as payment of park fees). Furthermore, based on our analysis within this section, the City's fire and police protection services, schools, and recreational facilities can accommodate this increased demand without significantly impacting service. Accordingly, the project would not result in a cumulatively considerable contribution to a public services impact.

**(Less than Significant Cumulative Impact)**

## 3.16 RECREATION

Public comments received during the NOP scoping process pertained to personal safety on the proposed trail connections, specifically regarding unhoused people using the area. The topics of personal safety and unhoused people in the area are not discussed in this EIR as these issues are not considered under CEQA. Safe design of transportation systems, including the proposed trail connection is however, a CEQA issue and is discussed in detail in Section 3.17, Transportation of this EIR.

### 3.16.1 Environmental Setting

#### 3.16.1.1 *Regulatory Framework*

**State**

Quimby Act – California Code Sections 66475 – 66478

The Quimby Act (California Government Code Sections 66475 – 66478) was approved by California legislature to preserve open space and parkland in the State. The Quimby Act authorizes local governments to establish ordinances requiring developers of new subdivisions to dedicate parks, pay an in-lieu fee, or provide a combination of the two. As described in Section 3.15 Public Services of this EIR, the City of San José has adopted a Parkland Dedication Ordinance and a Park Impact Ordinance, consistent with the Quimby Act.

**Local and Regional**

Martial Cottle Master Plan

The Martial Cottle Master Plan provides guidelines and policies for the development, operation, and maintenance of both the State-owned and County-owned portions of the park. The Master Plan establishes a broad vision and long-term direction for the park, as well as the specific implementation policies and guidelines that will guide the County in manifesting the vision for the park. The following policies are applicable to the proposed bicycle/pedestrian trail improvements:

| Policy | Description |
|---|---|
| CIRC.5 | Develop strategies for facilitating travel to and from the Park via alternative, non-automobile modes, such as bus, light rail, Cal-train, bicycle, and walking. |
| CIRC.7 | Work with the City of San José and Santa Clara Valley Transportation Authority (VTA) to provide safe and convenient pedestrian and bicycle connections from nearby transit notes that include bus stops, light rail, and Caltrain stations to the Park. |
| CIRC.8 | Work with the City of San José and VTA to provide multiple points of walk-in entry and crosswalks for pedestrians and bicyclists to facilitate access to the Park from surrounding neighborhoods and regional transit. |
| CIRC.10 | Work with the VTA and SCVWD to develop safe pedestrian and bicycle access to the Park from the Blossom Hill Light Rail Station. |
| CIRC.11 | Work with the VTA and Caltrans to develop access beneath Highway 85 to surrounding neighborhoods near Blossom Hill Road. |

| | |
|---|---|
| CIRC.12 | Work with the Santa Clara Valley Water District and the City of San José to develop and connect trails along Canoas Creek. |

Envision San José 2040 General Plan Policies

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

**Envision San José 2040 General Plan Relevant Recreational Policies**

| Policy | Description |
|---|---|
| PR-1.1 | Provide 3.5 acres per 1,000 population of neighborhood/ community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents. |
| 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 |
| PR-1.3 | Provide 500 SF per 1,000 population of community center space. |
| PR-2.4 | To ensure that residents of a new project and exiting residents in the area benefit from new amenities, spend Park Dedication Ordinance and Park Impact Ordinance fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates funds. |
| PR-2.5 | Spend, as appropriate, PDO/PIO fees for community serving elements 9such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds. |

### 3.16.1.2 *Existing Conditions*

**City Parks**

The City of San José currently operates 193 regional and city parks and gardens including 60 miles of trails. The City's Department of Parks, Recreation, and Neighborhood Services is responsible for development, operation, and maintenance of all City park facilities.[88]

The project site is located within the Edenvale Planning Area of San José, which is currently underserved with respect to parklands for the resident population. The area needs an additional 98 acres of parkland to provide the desired 3.5 acres per 1,000 residents for the projected 2020 population. [89]

The nearest public park is Playa Del Rey Park, located at 648 Glenburry Way, approximately 0.55-mile northwest of the project site. Cahalan Park also located in the project vicinity at 770 Pearlwood Way, approximately 0.6-mile south of the project site. Playa Del Rey Park includes BBQs, a half-sized basketball court, tot lot, playgrounds, and picnic areas. Cahalan Park includes BBQs, basketball

[88] City of San José. "San Jose at-a glance." Accessed April 9, 2021. https://www.sanjose.org/meetings/quick-guides/san-jose-at-a-glance
[89] City of San José. *Greenprint 2009 Update.* December 8, 2009. Page 104.

court, soccer field, two softball fields, two tennis courts, three half-sized basketball courts, playgrounds, and restrooms.

**Martial Cottle Park**

Martial Cottle Park is a 287-acre park jointly owned by the County of Santa Clara and State of California and operated by the Santa Clara County Department of Parks and Recreation. The park is located at 5283 Snell Avenue, approximately 610 feet north of the project site. Martial Cottle Park features trails, green space, and picnic areas. Additionally, 180 acres of the park is preserved for and in active agricultural use for ongoing community education.

## 3.16.2 Impact Discussion

For the purpose of determining the significance of the project's impact on recreation:

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

### 3.16.2.1 *Project Impacts*

**a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

The proposed project would develop the site with residential and commercial uses and trail improvements and would incrementally increase use of existing parks and recreational facilities compared to existing conditions, this development and population growth is anticipated under the General Plan, as the site (specifically the area of the proposed mixed-use development) is designated as a growth area. As described in Section 3.15 of this Draft EIR, the project would conform to the City's Parkland Dedication Ordinance and Park Impact Ordinance to ensure that the development would not significantly impact neighborhood and regional park facilities.

**(Less than Significant Impact)**

**b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

As discussed above, increased use of parks and recreational facilities resulting from the project were anticipated under the General Plan. The proposed project would pay in-lieu fees to meet City open space requirements. No new off-site recreational facilities would be required to serve the population increase that would result from the project. The proposed development would include a central courtyard area on the second floor of Building A and an outdoor amenities space adjacent to the western façade of Building B. For these reasons, the proposed project would not require the construction of new recreational facilities with the potential to adversely affect the environment.

The project would develop a 0.6-mile trail connecting the project site to Martial Cottle Park. As described in Section 2.2.4 of this Draft EIR, trail improvements along Canoas Creek would include demolition and relocation of portions of the VTA light rail station, including part of the stairs leading to the north side of the VTA station; removal of the fending and demolition of concrete structures under the SR 85 overpass; and creation of a 10- to 12-foot-wide bicycle/pedestrian path along Canoas Creek. No bridges and platforms over Canoas Creek are proposed. The environmental effects of proposed trail improvements are discussed throughout this EIR.

**(Less Than Significant Impact)**

#### 3.16.2.2 *Cumulative Impacts*

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

The geographic area for cumulative recreation impacts is the City of San José. Other projects in the City could increase the use of recreational facilities, such as neighborhood and regional parks, to the point of disrepair. Cumulative projects (including the project) within the City of San José would be required to offset their recreational impacts by providing on-site recreational facilities, dedicating parkland, and/or paying in-lieu fees. For this reason, the cumulative projects would not result in significant cumulative impacts to park and recreational facilities.

All cumulative projects (including the project) would be subject to the aforementioned requirements of the City's PDO and PIO to offset their demands on park and recreational facilities to a less than significant level. The General Plan FEIR concluded that payment of fees under the Quimby Act (i.e. the City's PDO/PIO fees) would reduce impacts to recreational facilities from build out of the General Plan to a less than significant level. For these reasons, the cumulative projects (including the project) would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

**(Less than Significant Cumulative Impact)**

## 3.17 TRANSPORTATION

The following discussion is based upon a Transportation Analysis and Transportation Demand Management Plan prepared by *Hexagon Transportation Consultants, Inc*. dated September 3, 2021. A copy of this report is attached as Appendix H to this Draft EIR. Public comments received during the NOP scoping process pertained to traffic congestion in the area, security measures at Blossom Hill Station, and on light rail, guest parking, VMT analysis, highway ramp queueing, way finding, bicycle and pedestrian facilities improvements, and trail connections. Additionally, comments received requested that the following intersections be studied in the Local Transportation Analysis (LTA) for the project:

- Almaden Expressway and Blossom Hill Road
- Almaden Expressway and Almaden Plaza Way/Hwy 85 Southbound offramp
- Almaden Expressway and Hwy 85 Northbound offramp

According to the City of San José's *Transportation Analysis Handbook*, a project is required to conduct an analysis of intersection operations if the project is expected to add 10 or more vehicle trips per hour per lane to a signalized intersection that is located within a half-mile of the project site. For these reasons, the LTA did not include an analysis of the three signalized intersections listed above, which are located approximately two miles from the project site.

### 3.17.1 Environmental Setting

#### 3.17.1.1 *Regulatory Framework*

**State**

Regional Transportation Planning

The MTC is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, including Santa Clara County. MTC is charged with regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle and pedestrian facilities in the region. MTC and ABAG adopted the Plan Bay Area 2040 plan in July 2017, which includes the region's Sustainable Communities Strategy and Regional Transportation Plan (including a regional transportation investment strategy for revenues from federal, State, regional, and local sources over the next 24 years).

Senate Bill 743

SB 743, which became effective September 2013, initiated reforms to the CEQA Guidelines to establish new criteria for determining the significance of transportation impacts that "promote the reduction of GHG emissions, the development of multi-modal transportation networks, and a diversity of land uses." Specifically, SB 743 directs the Governor's Office of Planning and Research (OPR) to update the CEQA Guidelines implementing SB743. SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize.

## Regional and City of San José

Congestion Management Plan

The VTA oversees the Congestion Management Program (CMP), which his aimed at reducing regional traffic congestion. The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. State legislation requires that each CMP define traffic LOS standards, transit service standards, a trip reduction and transportation demand management, a land use impact analysis program, and a capital improvement element. VTA has review responsibility for proposed development projects that are expected to affect CMP designated intersections.

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts from planned development in the City. The policies below are specific to transportation and are applicable to the proposed project.

**Envision San José 2040 General Plan Relevant Transportation Policies**

| Policy | Description |
|---|---|
| TR-1.1 | Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and VMT. |
| TR-1.2 | Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects. |
| TR-3.3 | As part of the development review process, require that new development along with existing and planned transit facilities consist of land uses and development types and intensities that contribute towards transit ridership. In addition, require that new development is designated to accommodate and to provide direct access to transit facilities. |
| 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. |

City Council Policy 5-1

As established in City Council Policy 5-1 "Transportation Analysis Policy," the City of San José uses VMT as the metric to assess transportation impacts from new development. If a project's VMT does not meet the established VMT thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis to analyze non-CEQA transportation issues, including local transportation operations, intersection LOS, site access and circulation, neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to have a less than significant VMT impact.

San José Bike Plan 2020 establishes goals, policies, and actions to facilitate bicycling as a daily part of life in San José. The plan includes and describes designated bike lanes along many City streets, as well as designated bike corridors. In order to further the goals of the City, pedestrian and bicycle facilities are encouraged with new development projects.

#### 3.17.1.2 *Existing Conditions*

Regional access to the project site is provided via SR 85 and SR 87. These facilities are described below.

**SR 85** is a predominantly north-south freeway that is oriented in an east-west direction in the vicinity of the project site. It extends from Mountain View to south San José, terminating at Highway 101 (US 101). SR 85 is a six-lane freeway with four mixed-flow lanes and two high-occupancy vehicle (HOV) lanes. It connects to I-280. SR 17, SR 87, and US 101. SR 85 provides access to the project site via an interchange at Blossom Hill Road. Additionally, the VTA Blossom Hill light rail station is located in the middle of the freeway with access to the station provided via the station entrance on the project site and via a staircase on the northeast side of SR 85.

**SR 87** is a north-south freeway providing access to the project site via its connection to SR 85. SR 87 extends from SR 85 in the south to I-280 and US 101 in the north. SR 87 is oriented in a northwest/southwest direction and has four mixed-flow lanes and two HOV lanes.

Local access to the project site is provided via Blossom Hill Road, Blossom Avenue, Chesbro Avenue, and Santa Teresa Boulevard. These roadways are described below.

**Blossom Hill Road** is a six-lane divided Main Street that runs in an east-west direction in the vicinity of the site. Blossom Hill Road extends westward to Los Gatos and eastward to US 101, where it transitions into Silver Creek Valley Road. Blossom Hill Road has posted speed limit of 40 miles per hour (mph). Blossom Hill Road includes a full interchange at SR 85 and provides direct access to the site.

**Blossom Avenue** is a north-south two-lane Local Connector Street with a two-way center left-turn lane. Blossom Avenue extends from Blossom Hill Road south to Colleen Drive at the base of the Santa Teresa foothills. Blossom Avenue has posted speed limit of 35 mph between Blossom Hill Road and Santa Teresa Boulevard and a posted speed limit of 25 mph south of Santa Teresa Boulevard. Access to the site is provided via its intersection with Blossom Hill Road.

**Velasco Drive** is a two-lane residential street that begins south of Avenida Arboles and ends at Entrada Cedros. Velasco Drive has a posted speed limit of 25 mph. Access to the project site is provide via a pedestrian entrance to the Blossom Hill Station off of Velasco Road.

**Chesbro Avenue** is a two-lane residential street that begins north of Blossom Hill Road and extends south to Colleen Drive at the base of the Santa Teresa foothills. Chesbro Avenue has a posted speed limit of 25 mph. Access to the project site is provided via its intersection with Blossom Hill Road.

**Cahalan Avenue** is a two-lane Local Connector Street that extends from Blossom Hill Road south to Colleen Drive at the base of the Santa Teresa foothills. Cahalan Avenue has a posted speed limit of 35 mph between Blossom Hill Road and Santa Teresa Boulevard and a posted speed limit of 25 mph

south of Santa Teresa Boulevard. Access to the site is provided via its intersection with Blossom Hill Road.

**Santa Teresa Boulevard** is a six-lane divided City Connector Street that begins at the terminus of SR87 and ends in Morgan Hill. It runs in an east-west orientation in the project vicinity and has a posted speed limit of 40 mph. Access to the project site is provided via its intersection with Blossom Hill Road.

### Pedestrian and Bicycle Facilities

Pedestrian facilities in the project area include sidewalks along the network of public streets. Crosswalks with pedestrian signal heads and push buttons are located at all signalized intersections, including the Blossom Hill Road/Indian Avenue and Blossom Hill Avenue/Chesbro Avenue intersections, in the project area. The existing network of sidewalks, including the sidewalks on both sides of Blossom Hill Road, provides good connectivity for pedestrians.

Bicycle facilities are divided into three classes. Class I bikeways are multi-modal bike and pedestrian paths that are physically separated from motor vehicles and offer two-way travel. Class II bikeways are striped bicycle lanes marked by signage and/or sharrows. Class III bikeways are bike routes and only have signs and/or sharrows. There are a number of roadways in the project area that have Class II bicycle lanes. Existing bicycle facilities in the project vicinity are shown on Figure 3.17-1. These bicycle lanes are located on the following roadway segments:

- Blossom Hill Road, between Monterey Road and Almaden Expressway
- Snell Avenue, between Ariel Drive (south of SR 85) and Capitol Expressway
- Blossom Avenue, between Blossom Hill Road and Santa Teresa Boulevard
- Cahalan Avenue, between Blossom Hill Road and Santa Teresa Boulevard
- Chynoweth Avenue, between Barron Park Drive and Coleman Road
- Calero Avenue, between Snell Avenue and Allen Avenue
- Santa Teresa Boulevard

In addition to bike lanes on existing roadways in the vicinity of the project site, the Guadalupe River/Los Alamitos Creek multi-use trail system (Class I bikeway) runs through the City of San José along the Guadalupe River and separates bicyclists from motor vehicle traffic. This multi-use trail system runs adjacent to SR 87 in the project vicinity, with access provided via Blossom Hill Road and Santa Teresa Boulevard, approximately 1.5 miles west of the project site. This trail system is available for use year-round. According to the City's Train Program Database, which identifies future trail alignments, a 0.95-mile-long trail is planned from the Blossom Hill light rail station to Hyde Park Drive.

### Transit Facilities

Existing transit services near the project site are provided by the Santa Clara VTA. The Blossom Hill Station is located adjacent to the project site and is served by Light Rail Transit (LRT) and VTA bus

route 27. Existing transit services near the project site are provided by VTA and Caltrain and are shown in Figure 3.17-2.

Santa Clara Valley Transportation Authority

VTA currently operates the 42.2-mile light rail line system extended from south San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The service operates nearly 24-hours a day with 15-minute headways during much of the day. The Blossom Hill LRT Station is located adjacent to the project site and is served by the Santa Teresa-Alum Rock LRT Line (Line 901)

VTA Bus Service. Local bus route 27 stops on the project site adjacent to the Blossom Hill LRT station. Route 27 operates between the Winchester Station and Kaiser San José Medical Center and provides service every 30 minutes during the weekday AM and PM peak commute periods of the day. Frequent bus route 66 operates along Snell Avenue approximately 0.5 mile east of the project site. Route 66 operates between Kaiser San José Medical Center and Dixon Road in Milpitas with 15-minute headways during the AM and PM peak commute periods of the day.

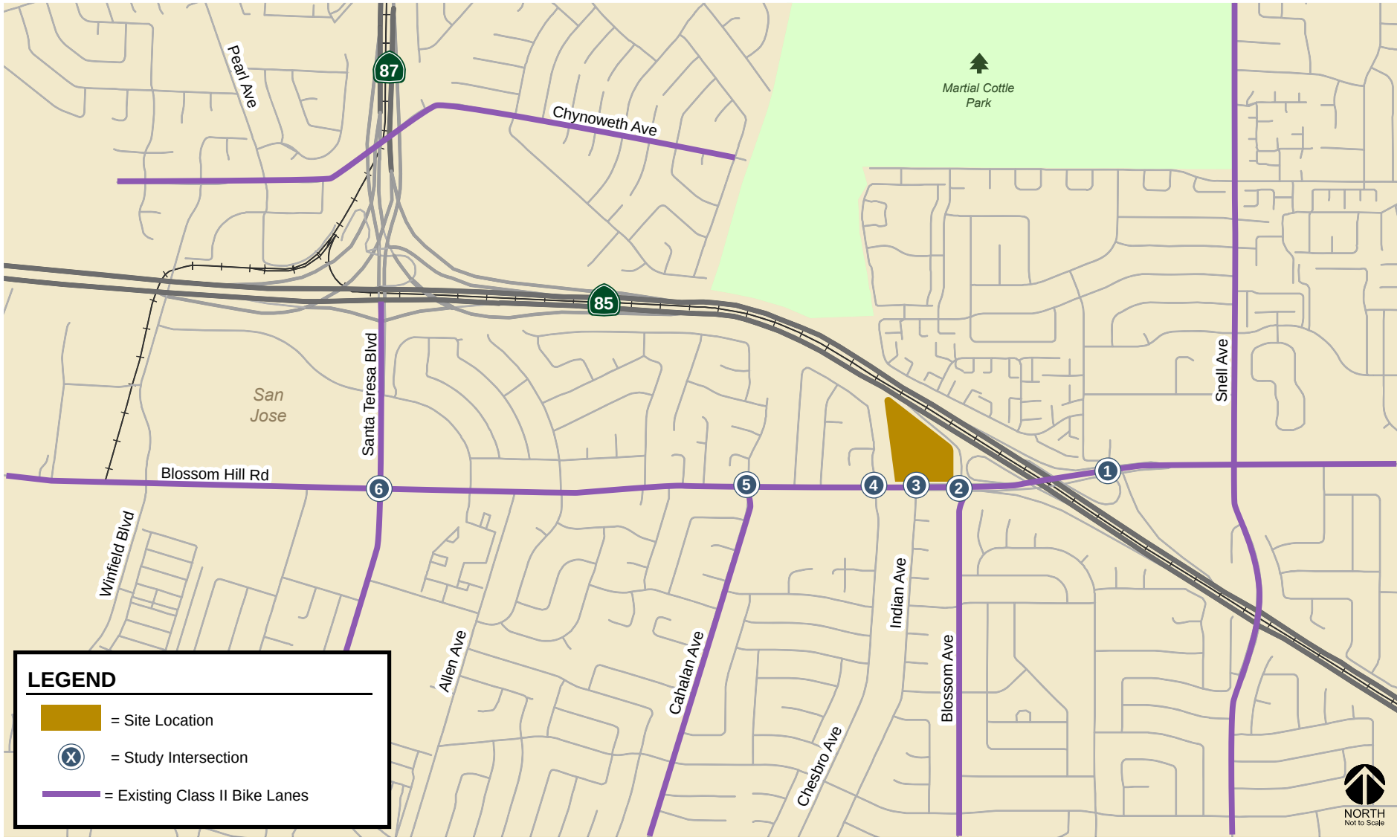
**Existing Trip Generation**

The project site (including the area of the proposed mixed-use development and trail improvements) is currently developed with a surface parking lot, bus stop, light rail station entrance, and gravel service road adjacent to Canoas Creek. Vehicle trips are currently generated by transit users traveling to and from the project site. The light rail station and bus stop would remain in operation during project construction and operation and no reduction in ridership is anticipated to result from the project. Therefore, existing trips associated with the existing uses were not factored into this analysis.

## 3.17.2 Impact Discussion

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

a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadways, bicycle lanes, and pedestrian facilities?
b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
d) Result in inadequate emergency access?




Source: Hexagon Transportation Consultants, Inc., October 21, 2020.

EXISTING BICYCLE FACILITIES IN PROJECT VICINITY

FIGURE 3.17-1


Source: Hexagon Transportation Consultants, Inc., October 21, 2020.

EXISTING TRANSIT FACILITIES IN PROJECT VICINITY

FIGURE 3.17-2

### 3.17.2.1 *Project Impacts*

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

#### Pedestrian Facilities

Pedestrian facilities in the study area consist of sidewalks, crosswalks, and pedestrian signals at signalized intersections. Pedestrian generators in the project vicinity include commercial areas and bus stops along Blossom Hill Road. The project site (including the area of the proposed mixed-use development and trail improvements) is within the service boundaries of Earl Frost Elementary School, Leonard Herman Intermediate School, and Oak Grove High School. Earl Frost Elementary School is located approximately 0.25-mile southeast of the project site on Gettysburg Drive, Leonard Herman Intermediate School is located approximately 0.6-mile south of the project site on Blossom Avenue, and Oak Grove High School is located on Blossom Hill Road approximately one-mile east of the project site. Safe and direct pedestrian access to all three school is provided via a continuous network of sidewalks along area streets, crosswalks and pedestrian signal heads, and wheelchair ramps at all corners of the intersections. In addition, two parks are located within walking distance of the project site: Cahalan Park, located approximately 0.5-mile southwest of the project site on Pearwood Way and Comanche Park, located adjacent to Leonard Herman Intermediate School, approximately 0.75-mile south of the project site. Pedestrian facilities between these parks and the project site are safe and adequate to serve the demand of the proposed project.

The project would construct a new bicycle/pedestrian trail along the east side of Canoas Creek adjacent to the western project boundary, extending to Martial Cottle Park and reconstruct the existing sidewalk along Blossom Hill Road. The project would also include construction of a new sidewalk and additional curb ramps at Blossom Hill Road on the east side of the project driveway and realignment of the existing crosswalk on the west side of the project driveway. All new and reconstructed curb ramps would be ADA compliant. The proposed changes would provide the most direct walking routes between the project site and nearby parks and schools. The proposed project would not exceed the capacity of the existing pedestrian facilities or preclude the construction of planned improvements.

**(Less than Significant Impact)**

#### Bicycle Facilities

The project would be directly served by a bike lane that runs between Monterey Road and Almaden Avenue on Blossom Hill Road, which runs along the project's southern frontage. As noted above, the project would construct a new bicycle/pedestrian trail along the east side of Canoas Creek, extending to Martial Cottle Park. The existing network of bike lanes have good connectivity and would provide new residents with safe routes to transit services and other points of interest nearby. The proposed project would not preclude the construction of planned improvements.

**(Less than Significant Impact)**

### Transit Operations

The project site (including the area of the proposed mixed-use development and trail improvements) is adequately served by the existing VTA transit services. As mentioned previously, the Blossom Hill LRT Station is located adjacent to the project site and as part of the proposed project, the existing station entrance staircase would be replaced, and the existing on-site bus stop would be relocated to Blossom Hill Road. The project is proposing to redesign the existing light rail station staircase to be separate from the proposed bicycle/pedestrian path and add bus stops with duck-outs on both sides of Blossom Hill Road, approximately midway between the project driveway and SR 85 southbound off-ramp. Due to the location of the project site in proximity to the Blossom Hill LRT Station and VTA bus stops, it is assumed that many project residents would utilize the transit services provided.

The new transit trips generated by the project would not create demand in excess of the transit service that is currently provided. Although the proposed project would alter existing VTA bus stop on-site during project construction and reconfiguration of the VTA parking lot, temporary replacement bus stops would be provided along Blossom Hill Road during project construction, and permanent replacement bus stops would be constructed for project operations. Therefore, the project would not conflict with the operation of existing or planned facilities. For these reasons, the proposed project would not interfere with the construction of planned transit facilities nor would the project exceed the capacity of the existing system.

**(Less than Significant Impact)**

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

### Project-Level VMT Impact Analysis

The project site (including the area of the proposed mixed-use development and trail improvements) is located within a high-VMT area. A project-level VMT analysis using the City's VMT Evaluation Tool was used to estimate the project VMT based on the project location, type of development, project description, and proposed trip reduction measures. The City of San José's 2018 Transportation Analysis Handbook includes screening criteria for projects that are expected to result in less than significant VMT impacts based on the project description, characteristics, and/or location. According to these screening criteria, projects with local serving retail uses of less than 100,000 square feet, such as the commercial component of the proposed project do not require a VMT analysis.

The screening criteria for Restricted Residential Projects is as follows:

1. **Planned Growth Areas**: Located within a Planned Growth Area as defined in the Envision San José General Plan; and
2. **High Quality Transit:** Located within ½ mile of an existing major transit stop or an existing stop along a high-quality transit corridor; and
3. **Low VMT Areas:** Located in an area in which the per-capita VMT is less than or equal to the CEQA significance threshold for the land use; and
4. **Transit-Supporting Project Density:**

- Minimum of 35 units per acre for residential projects or components;
- if located in a Planned Growth Area with a maximum density below 0.75 FAR or 35 units per acre, the maximum density allowed in the Planned Growth Area must be met; and

5. **Parking:**
    - No more than the minimum number of parking spaces required;
    - If located in Urban Villages or Downtown, the number of parking spaces must be adjusted to the lowest amount allowed; however, if the parking is shared; publicly available; and/or "unbundled", the number of parking spaces can be up to the zoned minimum; and
6. **Active Transportation:** Not negatively impact transit, bike or pedestrian infrastructure.

Although the proposed project consists of high-density residential transit-oriented development and is located within a future Urban Village (i.e., planned growth area), it does not meet the City's screening criteria because the project site is located in a high VMT area according to the City's General Plan. Therefore, a detailed CEQA transportation analysis was prepared for the residential component of the project. The VMT threshold for residential uses is the existing citywide average VMT level (11.91 per capita) minus 15 percent, which is 10.12 VMT per capita.

The project's VMT was estimated to be 13.37 per capita using the City's VMT Evaluation Tool. The project VMT therefore, exceeds the threshold of 10.12 VMT per capita. According to the Transportation Analysis Handbook, components of the proposed project would themselves contribute to a reduction in VMT. As noted in Section 2.2.5 above, the project would include construction of a new bicycle/pedestrian shared-use path along the east side of Canoas Creek, relocate the existing VTA bus stop to Blossom Hill Road, install pedestrian improvements such as improved lighting, widening of sidewalks, installation of additional lighting, ADA compliant curb ramps, and wayfinding signage on Blossom Hill Road and Velasco Drive directing transit users to the light rail station and bus stop. These bicycle and pedestrian improvements would enhance pedestrian connections in the project area, increasing transit accessibility and encouraging people to walk, bike, and take transit more frequently, thereby reducing VMT. Based on the City's VMT Evaluation tool, these project components would reduce VMT from 13.37 to 12.62. Therefore, project VMT would remain above the City's threshold of 10.12 VMT per capita. Since the VMT generated by the project would exceed the threshold of significance for residential uses in the area, the project would result in a significant transportation impact on VMT.

**Impact TRA-1:** Project generated vehicle miles traveled (VMT) would exceed the City's threshold of 10.12 VMT per capita for residential uses in the area by 2.5 VMT per capita, resulting in a significant VMT impact.

**Mitigation Measure:** Prior to issuance of building permits for the proposed project, the project applicant shall implement the following measures to reduce project generated VMT.

**MM TRA-1.1:** Prior to issuance of any occupancy permits, the project applicant shall prepare a Transportation Demand Management (TDM) plan for the project. The TDM plan shall include measures incorporated into the proposed project to reduce the project's significant VMT impact by at least 0.74 VMT per capita.

- School Pool Program

- Subsidized Transit Program
- Voluntary Travel Behavior Change and Program

The TDM plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and shall include a trip cap for VMT monitoring purposes. Annual trip monitoring reports shall be submitted that demonstrate that project generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap (102 AM trips and 139 PM trips), the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.

With implementation of MM TRA-1.1, project VMT would be reduced to 11.88 per capita, a reduction of 20 percent from the area VMT. However, because VMT would remain above the threshold of 10.12 VMT per capita with mitigation, this VMT impact is considered unmitigable. Therefore, the project would result in a significant and unavoidable VMT impact and would be required per City policy 5-1, to pay either a VMT override fee or fund and construct improvements at one of the following two intersections: Blossom Hill Road and Cahalan Avenue or Blossom Hill Road and Snell Avenue. These improvements may include signal improvements, lane configuration and striping improvements, signal operations and street lighting improvements, crosswalk and curb ramp improvements, and intelligent transportation system (ITS) infrastructure and identification, as detailed in Table 3.17-1 below.

**Table 3.17-1: Potential VMT Override Improvements**

| Blossom Hill Road & Cahalan Avenue | Blossom Hill & Snell Avenue |
|---|---|
| **Signal Improvements** | |
| • Removing pork-chop island at northeast corner and tighten curb radius<br>• Provide new signal poles and mast arms at all corners and remove existing signal pole from median island on Blossom Hill Road | • Remove pork-chop islands at northeast, southeast and southwest corners and tighten curb radius.<br>• Provide new signal poles and mast arms at all corners and remove existing signal poles from median island on Blossom Hill Road. |
| **Lane Configuration and Striping Improvements** | |
| • Upgrade crosswalks to high visibility crosswalks<br>• Install intersection line extension for northbound left-turn movement | • Upgrade all crosswalks to high visibility crosswalks. |
| **Signal Operations and Street Lighting Improvements** | |
| • Provide 8-phase signal operations<br>• Upgrade existing signal cabinet and controller on northwest corner | • Upgrade existing signal cabinet and controller on northwest corner. |
| **Crosswalk and Curb Ramp Improvements** | |

| Table 3.17-1: Potential VMT Override Improvements | |
|---|---|
| **Blossom Hill Road & Cahalan Avenue** | **Blossom Hill & Snell Avenue** |
| • Add new crosswalk to west leg of intersection<br>• Install accessible pedestrian signals (APS) at all crosswalks<br>• Upgrade pedestrian ramps at all corners to ADA standards and provide directional curb cuts | • Provide directional pedestrian curb ramps on all corners. |
| **ITS Infrastructure and Identification** | |
| • Upgrade to video detection for all intersection approaches (Point-zoom cameras) | N/A |

**(Significant Unavoidable Impact)**

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

The following site access and circulation evaluation is based on a review of the project site plan. Site access was evaluated to determine the adequacy of the site's access points with regard to traffic volume, delays, vehicle queues, geometric design, and corner sight distance. On-site vehicular circulation was reviewed in accordance with the City of San José Zoning Code and generally accepted traffic engineering standards.

### Site Access and Driveway Design

Vehicular access to the project site is proposed via a 26-foot-wide driveway along the south project frontage on Blossom Hill Road. The project driveway would meet the City's minimum 26-foot width for two-way multi-family residential driveways.

Based on the project trip generation and trip assignment, it is estimated that the project driveway would serve 32 inbound trips and 70 outbound trips during theAM peak hour and 80 inbound trips and 59 outbound trips during the p.m. peak hour. Adequate vehicle queueing space is provided for all inbound and outbound movements at the signalized project driveway.

### Sight Distance

The minimum sight distance is considered the Caltrans stopping sight distance. Sight distance requirements vary depending on the roadway speeds. For driveways on Blossom Hill Road, which has a posted speed limit of 40 mph, the Caltrans stopping distance is 360 feet. Accordingly, a driver must be able to see 360 feet along Blossom Hill Road in order to stop and avoid a collision.

The project would remove all existing street trees along the project frontage on Blossom Hill Road and replace them with new street trees. Like the existing trees, the new trees would have a high

canopy and drivers existing the signalized project driveway would continue to have an unobstructed view. Furthermore, the project is not proposing to add any signage or artwork along Blossom Hill Road that could negatively affect sight distance. Therefore, adequate stopping sight distance would continue to be provided at the signalized project driveway.

**Truck Access**

Based on the site plan configuration, adequate access would be provided for trucks (including small emergency vehicles, garbage trucks, and small to medium delivery trucks) via the project driveway, main drive aisle, and truck loading zones. Two designated short-term loading areas for resident move in activities and truck deliveries for the proposed commercial uses would be provided along the main north-south drive aisle, one adjacent to the west side of Building A and the other along the east side of Building B. Garbage collection activities would occur on-site with resident trash being collected from three trash rooms within Buildings A and B, and retail trash being collected from a bin wheeled outside on trash collection day. Truck access would be adequate to accommodate the needs of the proposed project.

**(Less than Significant Impact)**

**d) Would the project result in inadequate emergency access?**

The SJFD requires that all portions of proposed buildings be within 150 feet of a fire department access road and requires a minimum six-foot setback from all sides of the building to the property line.

Emergency vehicle access to the project site would be provided via the 26-foot-wide project driveway on Blossom Hill Road and the drive aisles within the surface parking lot. Additional emergency vehicle access would be provided along the eastern boundary of the site between Building A and the SR 85 southbound off-ramp. All areas of the proposed buildings would be within 150 feet of a fire access road and adequate vertical clearance would be provided along all drive aisles and fire access roads. For these reasons, the project would not result in inadequate emergency access and would comply with City guidelines for emergency access.

**(No Impact)**

### 3.17.2.2 *Cumulative Impacts*

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

Projects must demonstrate consistency with the Envision San José 2040 General Plan to address cumulative impacts. Consistency with the City's General Plan is based on the project's density, design, and conformance to the General Plan goals and policies. If a project is determined to be inconsistent with the General Plan, a cumulative impact analysis is required per the City's Transportation Analysis Handbook.

As discussed in Section 3.11 Land Use and Planning, the proposed project is consistent with the General Plan. The project site is located within the Blossom Hill Road/Cahalan Avenue Urban Village, which is currently in the planning stage and includes the Blossom Hill LRT station and nearby retail uses on the north side of Blossom Hill Road. According to the Envision San José General Plan, Urban Villages are walkable, bicycle-friendly, transit-oriented, mixed-use settings that provide both housing and jobs, thus supporting the General Plan's environmental goals. Projects that are located within an Urban Village boundary are eligible for a 20 percent parking reduction. The Urban Village strategy fosters:

- Engagement of village area residents in the urban village planning process
- Mixed residential and employment activities that are attractive to an innovative workforce;
- Revitalization of underutilized properties that have access to existing infrastructure;
- Densities that support transit use, bicycling, and walking and
- High-quality urban design

According to Implementation Policy 5.12 (IP-5.12), residential projects in a non-approved Urban Village (such as the proposed project site) can only develop on sites with a commercial land use designation (such as the project site's current *NCC* designation) if they apply as a mixed-use development under the category of Signature Projects or are 100 percent affordable housing and comply with Policy IP-5.12 of the General Plan. The proposed project is a mixed-use project with up to 328 dwelling units (including 27 percent affordable units) and up to 13,590 square feet of commercial space. Therefore, although the Blossom Hill Road and Cahalan Avenue Urban Village Plan has not yet been approved, the proposed residential mixed-use development would be allowed to occur under the current *NCC* land use designation.

For these reasons, the project would be consistent with the General Plan, and would be considered as part of the cumulative solution to meet the General Plan's long-range transportation goals. The project would result in a cumulatively considerable impact.

**(Less than Significant Cumulative Impact)**

### 3.17.3 Non-CEQA Effects

As noted above, with the passage of SB 743 amending CEQA's evaluation of transportation impacts and the effective date of the Guidelines implementing SB 743, a project's effects on Level of Service shall no longer be considered an impact on the environment. The following discussion is included because the City of San José has policies that address Level of Service as a planning or growth management matter, outside the CEQA process. In the event a deficient LOS condition is identified, the City has discretion whether to require a project to address the deficiency by implementing roadway or other transportation improvements to restore or improve the level of service, and the relevant question under CEQA is whether those improvements would result in adverse physical changes to the environment, and not whether Level of Service has degraded below the condition considered acceptable.

Consistent with City requirements, an LTA was completed for the project. The Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition (2017) was utilized to calculate the vehicle trips generated by the proposed project.

## Trip Generation

In accordance with San José's Transportation Analysis Handbook, the project is eligible for adjustments and reductions from the gross trip generation (refer to Appendix G for additional details). As shown in Table 3.17-2, after applying the ITE trip rates, appropriate trip reductions, including trip reductions from implementation of MM TRA-1.1, and existing site trip credits, it is estimated that the project would generate 1,768 daily vehicle trips, with 102 trips (32 inbound and 70 outbound) occurring during the AM peak hour and 139 trips (80 inbound and 59 outbound) occurring during the PM peak hour.

**Table 3.17-2: Project Trip Generation Estimates**

| Land Use | Daily Trips | AM Peak Hour | | | PM Peak Hour | | |
|---|---|---|---|---|---|---|---|
| | | In | Out | Total | In | Out | Total |
| Proposed Land Uses | | | | | | | |
| Multi-family Housing (Mid-Rise)[1] | 1,784 | 22 | 64 | 86 | 60 | 37 | 97 |
| *15% housing and retail mixed-use reduction[2]* | - 128 | 1 | 2 | 3 | 7 | 6 | 13 |
| *Location Based Reduction[3]* | *-199* | *4* | *10* | *14* | *10* | *6* | *-8* |
| *VMT Reduction[4]* | *-219* | *-4* | *-11* | *-15* | *-11* | *-7* | *-18* |
| Shopping Center[1] | 853 | 13 | 8 | 21 | 41 | 45 | 86 |
| *15% housing and retail mixed-use reduction[2]* | *-128* | *-2* | *-1* | *-3* | *-6* | *-7* | *-13* |
| *Location Based Reduction[2]* | *-87* | *-1* | *-1* | *-2* | *-4* | *-5* | *-9* |
| Project Trips After Reductions | 1,768 | 32 | 70 | 102 | 80 | 59 | 139 |

Notes:

[1] Source: ITE Trip Generation Manual, 10th Edition 2017, average trip generation rates.

[2] As prescribed by the Transportation Impact Analysis Guidelines from VTA (October 2014), the maximum trip reduction for a mixed-use development project with residential and retail is equal to 15% off the smaller trip generator.

[3] The project site is located within an urban low-transit area based on the City of San José VMT Evaluation Tool (March 14, 2018). The location-based vehicle mode shares are obtained from Table 6 of the City of San José Transportation Analysis Handbook (April 2018). The trip reductions are based on the percent of mode share for all of the other modes of travel besides vehicle.

[4] VMT per capita for residential use. Existing and project VMTs were estimated using the City of San José VMT Evaluation Tool. It is assumed that every percent reduction in VMT per-capita is equivalent to one percent reduction in peak-hour vehicle trips.

## Intersection Operations Analysis

Traffic conditions at four signalized intersections in the project area were evaluated using LOS and compared to the City's Transportation Analysis Handbook standards. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flow conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. As shown in Table 3.17-3 below, all study intersections are operating at LOS D or better, with the exception of the SR 85 Off-Ramp/Blossom Hill Road intersection which is currently operating at LOS E during both the AM and PM peak

hours. According to the traffic report, these conditions would continue under the project conditions. However, the project would not have an adverse effect on intersection operations according to the City's operational thresholds.

### On-site Circulation

In general, the proposed site plan would provide vehicle traffic with adequate connectivity throughout the site including to the proposed residential and mixed-use buildings, VTA parking lot and light rail station. However, based on the site plans, a two-way 24-foot-wide drive aisle would provide vehicular circulation throughout the parking structure within Building A which is narrower than the City's standard minimum width of 26 feet for two-way drive aisles. Additionally, the internal 24-foot-wide drive aisles and garage ramp could pose hazards for both small and large vehicles completing a right turn movement at the bottom of the ramp, resulting in potential conflicts between inbound and outbound vehicles. To reduce potential conflicts between inbound and outbound vehicles the following measures shall be incorporated as Conditions of Approval on the project.

**Condition of Approval:** The project applicant shall redesign the proposed project to reduce hazards in the geometric design of the Building A parking structure. The following changes shall be incorporated into the design of the Building A parking structure:

- Provide a larger radius at the bottom of the ramp, widen the ramp, and/or reorient the ramp to better serve inbound (right turning) vehicles; and
- Install convex mirrors at all blind corners of the parking structure to eliminate blind spots for vehicles making turns on both parking levels.

| Table 3.17-3: Existing/Background and Background Plus Project Intersection Levels of Service | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Intersection** | **LOS Standard** | **Peak Hour** | **Existing/ Background Conditions** | | **Project Conditions** | | | |
| | | | **Average Delay** | **LOS** | **Average Delay** | **LOS** | **Increase in Critical Delay** | **Increase in Critical V/C** |
| SR 85 NB Off-Ramp and Blossom Hill Road (E) | D | AM | 30.4 | C | 30.3 | C | 0.0 | 0.002 |
| | | PM | 33.6 | C | 33.6 | C | -0.1 | 0.003 |
| SR 85 SB Off-Ramp and Blossom Hill Road | D | AM | **60.2** | **E** | **61.6** | **E** | **2.5** | **0.010** |
| | | PM | **59.2** | **E** | **60.1** | **E** | **1.4** | **0.006** |
| Indian Avenue and Blossom Hill Road | D | AM | 7.7 | A | 11.1 | B | 3.5 | 0.42 |
| | | PM | 12.7 | B | 18.8 | B | 6.4 | 0.058 |
| Chesbro Avenue and Blossom Hill Road | D | AM | 18.6 | B | 18.4 | B | -0.1 | 0.004 |
| | | PM | 28.1 | C | 27.8 | C | -0.2 | 0.006 |
| Cahalan Avenue and Blossom Hill Road | D | AM | 21.8 | C | 21.7 | C | -0.1 | 0.003 |
| | | PM | 29.8 | C | 29.6 | C | -0.1 | 0.006 |
| Santa Teresa Boulevard and Blossom Hill Road* | D | AM | 35.2 | D | 35.1 | D | 0.0 | 0.001 |
| | | PM | 36.9 | D | 36.9 | D | 0.0 | 0.004 |

**Bold** text indicates intersections operates at unacceptable level of service. **Bold and highlighted** text indicates adverse operations effect caused by the project.

LOS = Level of Service, V/C = volume-to-capacity ratio, AM = morning peak hour (between 7:00 and 9:00 AM), PM = evening peak hour (between 4:00 and 6:00 PM).

*Denotes CMP intersection

With implementation of the above recommended measure, hazards in the geometric design of Building A would be reduced.

## Parking

Vehicle Parking

The project would remove approximately 330 existing on-site parking spaces and construct up to 328 multi-family dwelling units and 13,590 square feet of commercial space within two residential and mixed-use buildings in the southern half of the project site, along Blossom Hill Road. The project would retain and reconfigure the remaining 212 parking spaces in the northern half of the project site for use by transit riders accessing the VTA Blossom Hill Light Rail Station. According to an accessibility study conducted by VTA in August 2020, the existing parking lot is observed to be underutilized, with only a portion of the existing parking spaces occupied on a daily basis by transit users.[90] In addition, VTA anticipates that the project's proposed pedestrian and bicycle improvements would increase accessibility of the light rail station and bus stop from nearby residential and commercial uses, encouraging transit users to access these facilities via walking and biking, further reducing demand for parking on-site below existing utilization rates.[91] Furthermore, to ensure adequate access to the light rail station during project construction, the applicant is required as a condition of the lease agreement, to "ensure an accessible and safe path of travel for all public users from Blossom Hill Road to station main entrance at all times during construction; and safe pedestrian access to station platform from Velasco Drive."[92] For these reasons, implementation of the proposed project is not projected to result in inadequate parking at the VTA Blossom Hill Light Rail Station.

The required parking for the proposed project, based on the City of San José off-street parking requirements (Section 20.90.060), is 506 parking spaces before any reductions. A 20 percent reduction in required parking spaces is allowed for market rate units and a 50 percent reduction in required parking is allowed for affordable units, bringing the total parking spaces required at the project site to 360 spaces (including 303 spaces for the proposed residential uses and 57 spaces for the proposed commercial uses). The project proposes to utilize both of these parking reductions and provide a total of 323 parking spaces for the proposed residential and commercial uses on-site. Thus, 37 additional spaces would be required.

In addition to standard vehicle parking spaces, the City requires one motorcycle parking space for every four dwelling units and one motorcycle space for every 20 code-required retail vehicle parking spaces (Chapter 20.90, Table 20-190, 20-210 and 20-250 of the San José Zoning Code). A 20 percent reduction in required residential motorcycle parking spaces is allowed within Urban Villages, therefore, with the applicable reduction, the project would be required to provide a total of 69 motorcycle parking spaces.

The project proposes 54 motorcycle spaces. Thus, 15 additional motorcycle parking spaces would be required.

[90] Santa Clara Valley Transportation Authority. *VTA Blossom Hill TOD Access Study, Phase 2 Technical Memorandum.* August 4, 2020.
[91] Ibid.
[92] Durkin, Melissa. VP of Development, Republic Urban. Personal Communications. January 8, 2021.

Bicycle Parking

According to the City's Bicycle Parking Standards (Chapter 20.90, Table 20-210 and Table 20-190), the project is required to provide a total of 90 bicycle parking. Of the required residential bicycle parking, City standards require that at least 60 percent be secured long-term bicycle spaces and at most 40 percent be short-term bicycle spaces. The project would provide a total of 328 bicycle parking spaces, which would exceed the City's bicycle parking requirements.

## 3.18 TRIBAL CULTURAL RESOURCES

The discussion of tribal cultural resources in this section is based on the Section 106 Archaeological Literature Search and Initial Native American Consultation prepared by *Holman & Associates* in August 2019 and February 2020, respectively. The report is on file with the City of San José Planning, Building and Code Enforcement.

### 3.18.1 Environmental Setting

#### 3.18.1.1 *Regulatory Framework*

**State**

AB 52, effective July of 2015, established a new category of resources for consideration by public agencies when approving discretionary projects under CEQA, called Tribal Cultural Resources (TCRs). AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

Under AB 52, TCRs are defined as follows:

- Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are also either:
    - Included or determined to be eligible for inclusion in the California Register of Historic Resources[93]
    - Included in a local register of historical resources as defined in Public Resources Code Section 5020.1 (k)
- A resource determined by the lead agency to be a TCR

At the time of the release of the NOP for this Draft EIR on September 28, 2020, no tribes had provided AB 52 project notification requests to the City of San José except for projects in Coyote Valley (approximately 14 miles to the southeast of the project site). Andrew Galvan representing the Ohlone Tribe, has requested notification of all projects in the Downtown core. The City routinely notifies all tribes who are traditionally and culturally affiliated with the geographic area of the City based on the latest list from the NAHC when project documents are available for public review. The copy of the NOP was sent to all tribes on October 2, 2020 and no comments were received from any of the tribal contacts.

Prior to release of the Draft EIR, Tamien Nation requested notification of all non-exempt projects within the city of San José. A copy of the NOP was sent to Tamien Nation and Indian Canyon Mutsun Band of Costanoan Tribes on July 16, 2021. Tambien Nation responded on August 19, 2021 requesting consultation on the project and a consultation meeting was held on September 9,

[93] See Public Resources Code section 5024.1. The State Historical Resources Commission oversees the administration of the CRHR and is a 9-member state review board that is appointed by the Governor, with responsibilities for the identification, registration, and preservation of California's cultural heritage. The CRHR "shall include historical resources determined by the commission, according adopted procedures, to be significant and to meet the criteria in subdivision © (Public Resources Code, Section 5024.1 (a) (b)).

2021. Tamien Nation agreed with Mitigation Measures CUL-1.1 through CUL 1.4 and requested signage on the trail that reflected the Native American history of the project area. The applicant has voluntarily agreed to work with the City's Parks, Recreation and Neighborhood Services (PRNS) Department to provide the requested signage.

### 3.18.2 Impact Discussion

For the purpose of determining the significance of the project's impact on tribal cultural resources, would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

#### 3.18.2.1 *Project Impacts*

**a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?**

Because of the project site's proximity to Canoas Creek, the potential exists for unknown tribal cultural resources to be uncovered during construction activities. Therefore, as described in Section 3.5 Cultural Resources, the project will be required to have a Tribal Monitor present during demolition and excavation activities. Tribal monitoring in addition to implementation of the City's Standard Permit Conditions related to the discovery of archaeological resources and human remains would ensure that the potential impact is less than significant. Additionally, as noted in Section 2.2.4 Trail Improvements, the project would install interpretive signage along the trail acknowledging the Tamien Nation as culturally affiliated with the land.

**(Less than Significant Impact)**

**b) Would the project cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?**

See response to criterion a, above.

**(Less than Significant Impact)**

### 3.18.2.2 *Cumulative Impacts*

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

The geographic area for cumulative impacts to tribal cultural resources is the surrounding area (within 1,000 feet of the proposed project site).

Future cumulative projects, including those identified in Table 3.0-1, may require excavation and grading or other activities that may affect undiscovered tribal cultural resources. No tribal cultural resources have been identified in the project area, although San José contains numerous Native American archaeological sites and the site was found to have a moderate to high sensitivity in the archaeological report prepared for the project site. The proposed project and other cumulative projects would be required to implement the City's Standard Permit Conditions that would avoid impacts and/or reduce them to a less than significant level consistent with CEQA and AB 52 requirements. These projects would also be subject to the federal, State, and county laws regulating archaeological resources and human remains. Therefore, the project, in combination with other cumulative projects, would not result in a significant cumulative tribal cultural resources impact.

**(Less than Significant Cumulative Impact)**

# 3.19 UTILITIES AND SERVICE SYSTEMS

## 3.19.1 Environmental Setting

### 3.19.1.1 *Regulatory Framework*

**State**

State Water Code

Pursuant to the State Water Code, water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. As part of a UWMP, water agencies are required to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events. The City of San José adopted its most recent UWMP in November 2016.

Assembly Bill 939

The California Integrated Waste Management Act of 1989, or AB 939, established the Integrated Waste management Board, required the implementation of integrated waste management plans, and mandated that local jurisdictions divert at least 50 percent of solid waste generated (from 1990 levels) beginning January 1, 2000, and divert at least 75 percent by 2010. Projects that would have an adverse effect on waste diversion goals are required to include waste diversion mitigation measures.

Assembly Bill 341

AB 341 sets forth the requirements of the statewide mandatory commercial recycling program. Businesses that generate four or more cubic yards of garbage per week and multi-family dwellings with five or more units in California are required to recycle. AB 341 sets a statewide goal for 75 percent disposal reduction by the year 2020.

Senate Bill 1383

SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The bill grants Calrecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that at least 20 percent of currently disposed edible food is recovered for human consumption by 2025.

Assembly Bill 1826 (2014)

AB 1826 sets forth the requirements of the statewide mandatory commercial organics recycling program for businesses and multi-family dwellings with five or more units that generate two or more cubic yards of commercial solid waste per week. AB 1826 sets a statewide goal for 50 percent reduction in organic waste disposal by the year 2020.

California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal, and Recycling

In January 2010, the State of California adopted the California Green Building Standards Code (CalGreen), establishing mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality. These standards include the following mandatory set of measures, as well as more rigorous voluntary guidelines, for new construction projects to achieve specific green building performance levels:

- Reducing indoor water use by 20 percent;
- Reducing wastewater by 20 percent;
- Recycling and/or salvaging 65 percent of nonhazardous construction and demolition ("C&D") debris, or meeting the local construction and demolition waste management ordinance, whichever is more stringent; and
- Providing readily accessible areas for recycling by occupants.

## City of San José

Envision San José 2040 General Plan Policies

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The proposed project would be subject to the utilities and public services policies of the City's General Plan, including the following:

**Envision San José 2040 Relevant Utilities and Service Systems Policies**

| Policy | Description |
|---|---|
| MS-3.1 | Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreational needs or other area functions. |
| 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. |
| MS-3.3 | Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses. |
| EC-5.16 | Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from the project sites. |
| IN-3.3 | Meet the water supply, sanitary sewer and storm drainage level of service objectives through an orderly process of ensuring that, before development occurs, there is adequate capacity. Coordinate with water and sewer providers to prioritize service needs or approved affordable housing projects. |
| IN-3.5 | Require development which will have the potential to reduce downstream LOS to lower than "D", or development which would be served by downstream lines already operating at LOS lower than "D", to provide mitigation measures to improve the LOS to "D" or better, either acting independently or jointly with other developments in the |

| | |
|---|---|
| | same area or in coordination with the City's Sanitary Sewer Capital Improvement Program. |
| IN-3.7 | Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards. |
| IN-3.10 | Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's NPDES permit. |

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

City of San José California Green Building Standards Code Compliance for Construction, Waste Reduction, Disposal and Recycling

The City of San José requires 75 percent diversion of nonhazardous construction and demolition debris for projects that qualify under CALGreen, which is more stringent than the state requirement of 65 percent (San José Municipal Code Section 9.10.2480).

Construction and Demolition Diversion Deposit Program

Permit holders must pay a fully refundable deposit upon application for the construction permit with the City if the project is a demolition, alteration, or renovation project, or a certain type of tenant improvement. The Construction and Demolition Diversion Deposit Program (CDDD) requires projects to divert at least 50 percent of total projected project waste to be refunded the deposit. The deposit is fully refundable if construction and demolition materials were reused, donated, or recycled at a City-certified processing facility. Reuse and donation require acceptable documentation, such as photos, estimated weight quantities, and receipts from donations centers stating materials and quantities.

Though not a requirement, the permit holder may want to consider conducting an inventory of the existing building(s), determining the material types and quantities to recover, and salvaging materials during deconstruction.

San José Zero Waste Strategic Plan/ Green Vision

San José Zero Waste Strategic Plan/Climate Smart San José - Climate Smart San José provides a comprehensive approach to achieving sustainability through new technology and innovation. The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community and achieve its Climate Smart San Jose goals, including 75 percent diversion of waste from the landfill by 2013 and zero waste by 2022. Climate Smart San José also includes ambitious goals for economic growth, environmental sustainability, and enhanced quality of life for San José residents and businesses.

Private Sector Green Building Policy

The City of San José's Green Building Policy for new private sector construction encourages building owners, architects, developers, and contractors to incorporate meaningful sustainable building goals early in the design process. This policy establishes baseline green building standards for private sector construction and provides a framework for the implementation of these standards. It is also intended to enhance the public health, safety, and welfare of San José residents, workers, and visitors by fostering practices in the design, construction and maintenance of buildings that will minimize the use and waste of energy, water, and other resources.

### 3.19.1.2 *Existing Conditions*

#### Water Supply

Water service is provided to the City of San José by three water retailers, San José Water Company (SJWC), the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site (including the area of the proposed mixed-use development) would be supplied by SJWC. Existing water use at the project site is limited to irrigation for landscaping. No water service currently extends to the area of the proposed trail improvements.

#### Sanitary Sewer/ Wastewater Treatment

Sanitary sewer lines serving the site are owned and maintained by the City of San José. There is an existing six-inch vitrified clay pipe (VCP) sanitary sewer main along Blossom Hill Road project frontage, which may serve the project site. However, the existing bus stop, light rail station, and parking lot currently do not connect to the sewer main.

Wastewater from the project area is treated at the San José/Santa Clara Regional Wastewater Facility (RWF) in Alviso. The RWF has the capacity to treat 167 million gallons per day of sewage during dry weather flow.[94] In 2018, the RWF's average dry weather effluent flow was 79.4 million gallons per day.[95] Fresh water flow from the RWF is discharged to the South San Francisco Bay or delivered to the South Bay Water Recycling Project for distribution.

The City of San José generates approximately 69.8 million gallons per day of dry weather sewage flow. The City's share of the RWF's treatment capacity is 108.6 million gallons per day; therefore, the City has approximately 38.8 million gallons per day of excess treatment capacity.[96]

Due to the lack of existing structures on the project site, it is assumed that the project site does not generate wastewater under existing conditions.

#### Stormwater Drainage

The project site (including the area of the proposed mixed-use development and trail improvements) is located in a developed area served by an existing storm drainage system. The project site

[94] City of San José. "San José/Santa Clara Regional Wastewater Facility." Accessed: September 16, 2020. Available at: http://www.sanjoseca.gov/index.aspx?NID=1663.
[95] City of San José. *San José-Santa Clara Regional Wastewater Facility 2018 Annual Self-Monitoring Report*. 2018. Page 4.
[96] City of San José. *Envision San José 2040 General Plan FEIR.* September 2011. Page 648.

(including the area of the proposed mixed-use development and trail improvements) is currently developed with a light rail station entrance, associated parking, landscaping, and a gravel service road adjacent to Canoas Creek. The site contains approximately 274,794 square feet (85 percent) of impervious surfaces and 48,421 square feet (15 percent) of pervious surfaces.

Storm drainage lines in the project area are owned and maintained by the City of San José. There is a 72-inch RCP storm drain main along Blossom Hill Road frontage, which may serve the project site. The 72-inch RCP storm drain main leads to a storm drain outfall in Canoas Creek, adjacent to the project site.

**Solid Waste**

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California IWMB in 1996 and was reviewed in 2004 and 2007. Based on the IWMP, the County has adequate landfill capacity. 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. In 2019, there were approximately 600,000 tons of material generated in San José that was disposed of in various landfills throughout the State. Newby Island, however, only received approximately 290,000 of that tonnage. The total permitted landfill capacity of the operating landfills in the City is approximately 5.3 million tons per year. According to the IWMP, the County has adequate disposal capacity beyond 2030.[97] The total permitted landfill capacity of the operating landfills in the City is approximately 5.3 million tons per year.

Municipal solid waste generated in the City is first processed at various approved facilities in San José, and the residuals are disposed at Newby Island Sanitary Landfill (NISL). The City has an existing contract with NISL through December 31, 2020 with the option to extend the contract for as long as the landfill is open. The estimated closure date for NISL is 2041.[98] The City has an annual disposal allocation for 395,000 tons per year. As of April 2021, NISL had approximately 13.7 million cubic yards of capacity remaining.[99]

### 3.19.2 Impact Discussion

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

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

[97] Santa Clara County. *Five-Year CIWMP/RAIWMP Review Report.* June 2016.
[98] North, Daniel. General Manager, Republic Services. Personal Communication. April 19, 2021.
[99] Ibid.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

e) Be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?

### 3.19.2.1 *Project Impacts*

**a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

#### Water

Existing water utility lines in nearby streets would be used to supply water to the project site in order to meet its water demands. The proposed project would increase water demand at the site (refer to criterion b. below) but would not require the relocation or construction of new or expanded water facilities. Lateral connections to water lines in nearby streets would be established during grading and result in minimal impacts. Therefore, the project would not result in a significant environmental impact due to new or expanded water facilities.

#### Sanitary Sewer Infrastructure

The project would comply with all applicable Public Works requirements to ensure sanitary sewer mains would have capacity for sewer services required by the proposed project. The proposed project would connect to the existing six-inch sanitary sewer main in Blossom Hill Road (which has a downstream pipe diameter of eight inches and an upstream pipe diameter of six inches) via a new eight-inch sanitary sewer lateral at the southern boundary of the project site. Connection to the existing sewer system would occur during grading and street improvements and would result in minimal impacts. No other sanitary sewer infrastructure would be required by the proposed project.

#### Stormwater Drainage

The project site (including the area of the proposed mixed-use development and trail improvements) is currently developed with a bus stop, transit station entrance, associated surface parking, landscaping, and a gravel service road adjacent to Canoas Creek. Runoff from the project site currently enters the storm drainage system untreated and unimpeded. The project proposes to construct one new mixed-use (residential and commercial) building and one new residential building, landscaping, and trail improvements. The project would reduce impervious surfaces on-site from 162,573 square feet to 154,479 square feet, a reduction of 4.9 percent below existing conditions. To connect to the existing storm drainage system, the project would install 12-inch storm drains. Stormwater runoff from the project site would be treated on-site in bioretention basins and flow through planters before entering the existing 72-inch storm drain in Blossom Hill Road. Stormwater runoff from the project site would be treated on-site in bioretention basins and media filter systems before entering the existing 72-inch storm drain main on Blossom Hill Road. Proposed bioretention basins and media filter systems would decrease the rate and volume of stormwater runoff entering the City storm drainage system. This would be a less than significant impact.

**Other Utilities**

The project would utilize existing utility connections to connect to the City's electric, natural gas, and telecommunications systems. Although the project would increase the demand on existing facilities in the City, relocation of existing or construction of new facilities would not be needed to serve the project. As a result, the proposed project would have a less than significant impact on these facilities.

Trail improvements may use electricity for trail safety and security lighting; however, because no structures are proposed associated with the trail improvements, no other utilities are anticipated to be used.

**(Less than Significant Impacts)**

**b) Would the project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?**

As previously mentioned, the site currently uses minimal water for landscape irrigation. The proposed project would result in an increase in water demand of approximately 8,767 gpd[100] compared to existing site conditions. The General Plan has specific policies to reduce water consumption including expansion of the recycled water system and implementation of water conservation measures. The project would have a less than significant impact on the City's water supply.

Trail improvements may require minimal amounts of water for dust suppression during project construction. However, trail uses do not require water once constructed. Therefore, it is anticipated that sufficient water supplies would be available for the proposed trail improvements and impacts would be less than significant.

**(Less than Significant Impact)**

**c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

As mentioned previously, 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). For the purposes of this analysis, wastewater flow rates are assumed to be 80 percent of the total on-site water use. The proposed project is estimated to generate approximately 7,014 gpd of wastewater. The City currently has approximately 38.8 mgd of excess treatment capacity at the RWF; therefore, the project would be adequately served by the existing capacity of the RWF and impacts would be less than significant.

[100] Illingworth & Rodkin, Inc. Blossom Hill Station Mixed-Use *Air Quality & Greenhouse Gas Assessment*. November 10, 2020, revised January 28, 2022.

Proposed trail improvements would not generate wastewater because they would not include restrooms or other facilities which generate wastewater.

**(Less than Significant Impact)**

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

The proposed mixed-use development and trail improvements would generate an increase of approximately 957 pounds of solid waste per day compared to existing conditions at the project site.[101] As mentioned previously, the NISL had approximately 13.7 million cubic yards of capacity remaining in April 2021. Given NISL's remaining capacity, the City's contract with NISL, the amount of waste the City disposes of at NISL, and the amount of waste the project is expected to generate, there is sufficient capacity at NISL to service the project. For these reasons, impacts would be less than significant.

**(Less than Significant Impact)**

**e) Would the project be noncompliant with federal, state, or local management and reduction statutes and regulations related to solid waste?**

Per CALGreen requirements, future projects (including the proposed project and off-site trail improvements) would be required to provide on-site recycling facilities, develop a construction waste management plan, salvage at least 75 percent of nonhazardous construction/demolition debris (by weight), and implement other waste reduction measures. The estimated increases in solid waste generation from future development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Zero Waste Strategic Plan, in combination with existing regulations and programs, would ensure that the proposed project would not result in significant impacts on solid waste disposal capacity in excess of State or local standards or in excess of NISL capacity.

**(Less than Significant Impact)**

### 3.19.2.2 *Cumulative Impacts*

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

The geographic study area for cumulative impacts to utilities and service systems is Citywide or within the applicable utility's service area, as noted below.

[101] Illingworth & Rodkin, Inc. *Blossom Hill Station TOD Air Quality & Greenhouse Gas Assessment*. November 10, 2020, revised January 28, 2022.

### Water

The geographic area for cumulative water supply is the service area of the SJWC. The proposed project was anticipated in the General Plan growth assumptions. San José Water has determined that there is sufficient capacity to serve future development within the SJWC service area. For these reasons, there is no significant cumulative water supply impact.

As discussed above under checklist question a) and b), the project and trail improvements would be adequately served by existing water mains in Blossom Hill Road and with implementation of existing regulations and General Plan policies, the proposed project would not require or result in the relocation or construction of new or expanded facilities. For these reasons, the proposed project would not contribute to a significant cumulative impact on water facilities.

### Wastewater

The geographic area for cumulative wastewater treatment is the service area of the RWF. As discussed under checklist question c), there is adequate treatment capacity at the RWF to meet the project's needs. Further, increased demand at the RWF created by planned development under the General Plan is expected and accounted for in long-term infrastructural planning by the City of San José and its partner agencies.

### Stormwater

The proposed project and trail improvements would decrease the impervious surfaces on-site; it would comply with the MRP by installing bioretention basins and flow-through planters to reduce stormwater runoff entering the City's storm drainage system. For these reasons, the project would not have a cumulative impact on the City's storm drainage system.

### Solid Waste

The Envision San José General Plan EIR concluded build out of the General Plan would have a less than significant solid waste impact. As discussed under checklist question d) and e) above, the NISL has adequate disposal capacity through 2041 and the project is consistent with the General Plan growth projections. Cumulative projects, including the proposed project, would be required to conform to City plans and policies to reduce solid waste generation, and would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure. For these reasons, the proposed project and trail improvements would have a less than significant cumulative impact to solid waste disposal.

**(Less than Significant Cumulative Impact)**

## 3.20 WILDFIRE

### 3.20.1 Environmental Setting

#### 3.20.1.1 *Regulatory Framework*

**State**

Fire Hazard Severity Zones

CalFIRE is required by law to map areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors. Referred to as Fire Hazard Severity Zones (FHSZs), these maps influence how people construct buildings and protect property to reduce risk associated with wildland fires. FHSZs are divided into areas where the State has financial responsibility for wildland fire protection, known as State responsibility areas (SRAs), and areas where local governments have financial responsibility for wildland fire protection, known as local responsibility areas (LRAs). Homeowners living in an SRA are responsible for ensuring that their property is in compliance with California's building and fire codes. Only lands zoned for very high fire hazard are identified within LRAs.

California Fire Code Chapter 47

Chapter 47 of the California Fire Code sets requirements for wildland-urban interface fire areas that increase the ability of buildings to resist the intrusion of flame or burning embers being projected by a vegetation fire, in addition to systematically reducing conflagration losses through the use of performance and prescriptive requirements.

California Public Resources Code Section 4442 through 4431

The California Public Resources Code includes fire safety regulations that restrict the use of equipment that may produce a spark, flame, or fire; require the use of spark arrestors on construction equipment that uses an internal combustion engine; specify requirements for the safe use of gasoline-powered tools on forest-covered land, brush-covered land, or grass-covered land; and specify fire suppression equipment that must be provided onsite for various types of work in fire-prone areas. These regulations include the following:

- Earthmoving and portable equipment with internal combustion engines would be equipped with a spark arrestor to reduce the potential for igniting a wildland fire (Public Resources Code Section 4442);
- Appropriate fire suppression equipment would be maintained during the highest fire danger period, from April 1 to December 1 (Public Resources Code Section4428);
- On days when a burning permit is required, flammable materials would be removed to a distance of 10 feet from any equipment that could produce a spark, fire, or flame, and the construction contractor would maintain appropriate fire suppression equipment (Public Resources Code Section 4427); and
- On days when a burning permit is required, portable tools powered by gasoline-fueled internal combustion engines would not be used within 25 feet of any flammable materials (Public Resources Code Section 4431).

California Code of Regulations Title 14

The California Board of Forestry and Fire Protection has adopted regulations, known as SRA Fire Safe Regulations, which apply basic wildland fire protection standards for building, construction, and development occurring in a SRA. The future design and construction of structures, subdivisions and developments in SRAs are required to provide for the basic emergency access and perimeter wildfire protection measures discussed in Title 14.

#### 3.20.1.2 *Existing Conditions*

The project site is located in an urbanized area of San José. The project site is not located in or near State responsibility areas or lands classified as very high fire hazard severity zones.[102]

### 3.20.2 Impact Discussion

For the purpose of determining the significance of the project's impact on wildfire, if located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

#### 3.20.2.1 *Project Impacts*

**a) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?**

As noted in Section 3.20.1 above, the project site (including the area of the proposed mixed-use development and trail improvements) is located in an urbanized area of San José distant from State responsibility areas and lands classified as very high fire hazard severity zones. [103] The project would replace an existing surface parking lot with two buildings, a multi-use path along Canoas Creek, and resurface the existing surface parking lot to remain. As discussed in Section 3.17, Transportation above, the project would not require temporary or permanent road closure. For these reasons, the proposed project would not substantially impair an adopted emergency response plan or emergency evacuation plan and there would be no impact.

[102] California Department of Forestry & Fire Protection. *Santa Clara County Very High Fire Hazard Severity Zones.* October 8, 2008. Accessed December 21, 2020. gis.data.ca.gov/datasets/789d5286736248f69c4515c04f58f414/
[103] Ibid.

**(No Impact)**

**b) Would the project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?**

The project site (including the area of the proposed mixed-use development and trail improvements) is located in an urbanized area of San José that has generally flat topographic relief. For these reasons, the project would not exacerbate risks, and thereby expose occupants to pollutant concentrations from a wildfire or the uncontrolled spread of wildfire.

**(No Impact)**

**c) Would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?**

The proposed project would replace an existing surface parking lot with two buildings, a multi-use path along Canoas Creek, and resurface the existing surface parking lot to remain. The project site (including the area of the proposed mixed-use development and trail improvements) is located in a developed area, adjacent to existing infrastructure and roads. Therefore, the proposed project would not require the installation or maintenance of associated infrastructure that would exacerbate fire risk.

**(No Impact)**

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

The project site (including the area of the proposed mixed-use development and trail improvements) is not located in or near State responsibility areas or lands classified as very high fire hazard severity zones; therefore, the project would not result in cumulative wildlife impacts.

**(No Cumulative Impact)**

# SECTION 4.0 GROWTH-INDUCING IMPACTS

For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the decree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility [road and sewer line] necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project proposes development on an underutilized parcel considered an infill site in the City of San José. The site is surrounded by existing infrastructure and both existing and planned development. Development of the proposed project would not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include unanticipated expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

The proposed project would place new residences and retail adjacent to existing retail, housing, and commercial development on a major transportation corridor within the Blossom Hill/Cahalan Avenue Urban Village, an area designated for intensification in the City's Envision San José 2040 General Plan. The proposed project is within the growth capacity anticipated in the General Plan. The project would not pressure adjacent properties to redevelop with new or different land uses, in a manner inconsistent with the General Plan.

Based on the above, the project would not have a significant growth inducing impact.

# SECTION 5.0 SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed project, should it be implemented" [Section 15126(c)].

Future development on the site would involve the use of non-renewable resources both during construction phases and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Upon completion of new construction on-site, occupants would use non-renewable resources for transportation and to heat the buildings. The proposed project would also result in the increased consumption of water compared to the present uses (parking and transit station).

The City of San José encourages the use of building materials that include recycled materials and makes information available on those building materials to developers. New buildings would be constructed to current building codes, which require insulation and design to minimize wasteful energy consumption. The proposed development would be constructed consistent with the City's Green Building Policy and would, as a result, use less energy for heat and light and less water than standard design buildings.

The project site (including the area of the proposed mixed-use development and trail improvements) is located adjacent to an existing light rail station which would provide future residents, employees, and customers access to existing transportation networks. The site provides expansion of job opportunities that are more reasonably proximate to existing housing and transportation networks in Santa Clara, San José, and Cupertino than housing farther away in the south county and other counties to the north. The proposed project would, therefore, facilitate a more efficient use of resources over the lifetime of the project. For these reasons, the project would not result in significant and irreversible environmental changes.

# SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as proposed. The following significant unavoidable impact has been identified as resulting from the proposed project:

- **Transportation and Traffic:** Project generated VMT would exceed the City's threshold of significance for residential uses in the area, resulting in a significant VMT impact.

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures and Standard Permit Conditions identified in this Draft EIR.

# SECTION 7.0 ALTERNATIVES

## 7.1 OVERVIEW

CEQA requires that an EIR identify and evaluate alternatives to a project as it is proposed. Two key provisions from the CEQA Guidelines pertaining to the discussion of alternatives are included below:

> **Section 15126.6(a).** Consideration and Discussion of Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and mut publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.
>
> **Section 15126.6(b). Purpose.** Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or be more costly.

Other elements of the CEQA Guidelines discuss that alternatives should include enough information to allow a meaningful evaluation and comparison with the proposed project. The CEQA Guidelines state that if an alternative would cause one or more additional impacts, compared to the proposed project, the discussion should identify the additional impact, but in less detail than the significant effects of the proposed project.

The three critical factors to consider in selecting and evaluating alternatives are: (1) the significant impacts from the proposed project that could be reduced or avoided by any alternative, (2) consistency with the project's objectives, and (3) the feasibility of the alternatives available. Each of these factors is discussed below.

## 7.2 SIGNIFICANT IMPACTS FROM THE PROJECT

The CEQA Guidelines advise that the alternatives analysis in an EIR should be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project and would achieve mostly of the project objectives. Impacts that would be significant include:

- **Impact AIR-1:** Construction activities associated with the proposed project would expose sensitive receptors near the project site to TAC emissions in excess of BAAQMD thresholds.

- **Impact BIO-3:** Demolition, grading, construction activities and tree removal during the nesting season could impact nearby migratory birds and raptors. (Less than Significant Impact with Mitigation Measures BIO-3.1 through BIO-3.4)
- **Impact CUL-1:** The project site has high archaeological sensitivity, therefore ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources. (Less than Significant Impact with Mitigation Measure CUL-1.1 and CUL-1.2).
- **Impact HAZ-1:** Project construction could result in health risks to construction workers and nearby sensitive receptors from exposure to residual agricultural chemicals in the soil during ground disturbing activities.
- **Impact NOI-1:** Project construction would occur for more than one year and be located within 500 feet of residential uses, exceeding the City's threshold of significance for construction noise impacts. (Less than Significant Impact with Mitigation Measure NOI-1.1, see Appendix G)
- **Impact TRA-1:** Project generated VMT would exceed the City's threshold of significance for residential uses in the area, resulting in a significant VMT impact. (Significant Unavoidable Impact with incorporation of Mitigation Measure TRA-1.1, see Appendix H).

Pursuant to CEQA Guidelines Section 15124, the EIR must include a statement of the objectives sought by the proposed project.

## 7.3 OBJECTIVES OF THE PROJECT

While CEQA does not require that alternatives be capable of meeting all of the project objectives, their ability to meet most of the objectives is considered relevant to their consideration. The stated objectives of the project are to:

a) To create a high-density, transit-oriented, mixed-use development adjacent to the Blossom Hill Station
b) To provide needed affordable housing units to Extremely Low, Very-Low, and Low-Income households in proximity to multi-modes of transit
c) To create vibrant community assets including a new transit plaza and trailhead plaza adjacent to the Blossom Hill Station
d) To transform an underutilized surface parking lot through the development of a mixed-use development with 13,590 square feet of neighborhood serving retail
e) To improve access along the Canoas Creek Trail and to create a new approximately 0.6-mile trail connection to Martial Cottle Park

## 7.4 PROJECT ALTERNATIVES

### 7.4.1 Feasibility of Alternatives

CEQA, the CEQA Guidelines, and the case law on the subject have found that feasibility can be based on a wide range of factors and influences. The CEQA Guidelines advise that such factors can include (but are not necessarily limited to) the suitability of an alternative site, economic viability, availability of infrastructure, consistency with a general plan or with other plans or regulatory limitations, jurisdictional boundaries, and whether the project proponent can "reasonably acquire control or otherwise have access to the alternative site (Section 15126.6 [f] [1]).

CEQA does not require an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines, Section 15126.6, subd. (a), italics added.) as this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (Mira Mar, subra, 119 Cal.App.4th at p. 491.) The CEQA Guidelines thus do not require analysis of off-site alternatives in every case. Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App,4th at p. 491 citing Section 21001, subd. (g), 21002.1, subd. (a), 21061.)

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location."[104] The proposed project is a high-density mixed-use development within the Blossom Hill Cahalan Urban Village in San José. It is not likely that an alternative location within this Urban Village would substantially lessen the identified impacts.

#### 7.4.1.1 *100 Percent Affordable Alternative*

Under the 100 Percent Affordable Alternative, Buildings A and B would be constructed in the same location on the project site as under the proposed project and would include a total of 328 affordable dwelling units with no commercial space in order to meet City VMT screening criteria and avoid the project's significant unavoidable VMT impact. Additionally, because no commercial space would be proposed, Building A would be reduced in height from six stories to five stories compared to the proposed project. Building B would be five stories, consistent with the proposed project. All on- and off-site trail improvements, parking lot and transit station improvements, and landscaping would be constructed the same as the proposed project.

**Comparison of Environmental Impacts**

According to the City of San José's 2018 Transportation Analysis Handbook, 100 percent affordable housing projects are considered to have a less than significant VMT impact. Therefore, the 100 Percent Affordable Alternative would avoid the project's significant unavoidable VMT impact. In addition, because Building A would not include commercial uses, this Alternative would result in some reduction in air quality emissions during construction due to the reduced building size. However, because the length of construction, amount of grading and proximity to sensitive receptors would be similar to the proposed project, construction noise impacts would be comparable to the proposed project. Additionally, because the area disturbed by this alternative would be the same as the proposed project, impacts to biological and cultural resources would be the same as the proposed project.

**Relationship to Project Objectives**

The 100 Percent Affordable Alternative would create a high-density development adjacent to the Blossom Hill Station, provide affordable housing units, increase VTA ridership, transform an

[104] CEQA Guidelines Section 15126.6(f)(2)(A)

underutilized site, and improve access to Canoas Creek trail meeting project objectives to the same extent as the proposed project. However, because this alternative would not include construction of commercial uses on-site, it would not meet the project objective of creating high-density mixed-use development adjacent to transit. For these reasons, the 100 Percent Affordable Alternative would meet all of the project objectives, except for Objective d.

**Conclusion**

The 100 Percent Affordable Alternative would construct two buildings containing a total of 328 deed restricted affordable dwelling units, and off-site trail improvements, parking lot and transit station improvements, and landscaping. This alternative would avoid the proposed project's significant unavoidable VMT impact and result in reduced construction related air quality and noise impacts due to the reduced height and square footage of Building A. Biological and cultural resources impacts would be the same as the proposed project because this alternative would develop two buildings with similar building footprints and in the same location as the proposed project. This alternative would meet all of the project objectives to a lesser extent than the proposed project.

#### 7.4.1.2 *No Project – No Development Alternative*

The CEQA Guidelines (Section 15126(d)4] require that an EIR specifically include a "No Project" alternative. The purpose of including a No Project alternative is to allow decision-makers to compare the impacts of approving the project with the impacts of not approving the project. The Guidelines specifically advise that the No Project alternative is "what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services." [Section 15126.6 (e)(2)] The CEQA Guidelines emphasize that an EIR should take a practical approach, and not "…create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment [Section 15126.6(e)(3)(B)]."

The No Project – No Development Alternative would retain the existing land uses on-site as is. If allowed to remain as is, and no changes are made, the existing parking lot, bus stop, and light rail station entrance would remain in operation.

**Comparison of Environmental Impacts**

If the No Project – No Development Alternative were selected, the project site would remain in its current state, developed with a surface parking lot and light rail station entrance. The trail connection, trailhead improvements, and the proposed mixed-use development would not be constructed.

**Relationship to Project Objectives**

The No Project – No Development Alternative would not meet any of the project objectives. Under this alternative the City would lose the opportunity to create a high-density, transit oriented, mixed-use development adjacent to the multi-modal Blossom Hill Station. The No Project -No Development Alternative would not meet the project objective of providing affordable housing units, community assets such as a transit plaza and trailhead plaza, or neighborhood serving retail. Additionally, the No Project -No Development Alternative would not meet the project objective of

improving access along Canoas Creek trail or providing connection to Martial Cottle Park. For these reasons, the No Project – No Development Alternative would not meet all of the project objectives.

**Conclusion**

The No Project -No Development Alternative would avoid all of the project's environmental impacts but would not meet any of the identified project objectives.

#### 7.4.1.3 *No Project – Neighborhood/Community Commercial Development Alternative*

The project site is currently designated *NCC-Neighborhood/Community Commercial* under the General Plan and is zoned *A- Agriculture*. The *NCC* land use designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas. Developments under this designation are allowed a maximum floor area ratio (FAR) of 3.5 (one to five stories).

The *A* Zoning District is intended to provide for areas where agricultural uses are desirable. The project site is located within an urbanized area of San José and is currently developed with a transit station entrance, bus stop, and associated surface parking lot. The *A* designation for the site is inconsistent with the General Plan land use designation and is considered a legacy zoning district. Therefore, future development of the site would require a rezoning to a use consistent with the General Plan.

Given the site's *NCC* land use designation, its location within the Blossom Hill/Cahalan Urban Village growth area, and the objectives of the City's General Plan, it is reasonable to assume that if the proposed project were not approved, an alternative development would be proposed in the future which would conform to the *NCC* land use designation and future Urban Village Plan. Any alternative project proposed on the site would likely be a commercial/retail project comparable in scale to the buildings currently proposed and would be located along the Blossom Hill Road frontage to preserve access to and use of the Blossom Hill Light Rail station. To operate the light rail station, VTA requires use of approximately half of the existing parking spaces, restricting potential development to the southern half of the site. Based on the space constraints on-site, development under this alternative would likely result in a building with between 100,000 to 323,215 square feet (0.5 to 1.0 FAR) of commercial/retail space.

**Comparison of Environmental Impacts**

Given the scale of possible development, it is reasonable to assume that construction air quality and noise impacts would be comparable to the proposed project because the amount of grading and proximity to sensitive receptors would likely be similar. Other identified impacts to biological resources and cultural resources would be comparable to the proposed project because this alternative assumes grading and excavation to a similar extent as the proposed project as well as removal of all landscaping trees on-site. According to the City's VMT policy, retail development of 100,000 square feet or less (considered neighborhood serving) would result in a less than significant VMT impact, while development of retail uses over 100,000 square feet would require a site specific VMT analysis using the City's Travel Demand Forecasting model. While this alternative would result in jobs and services being developed in a predominantly residential area, due to the high VMT of the area, a commercial/retail project over 100,000 square feet but less than 323,215 square feet would be

insufficient to measurably reduce areawide VMT and would likely result in a significant VMT impact.

**Relationship to Project Objectives**

Given the site's *NCC* land use designation and maximum density allowed at the site, the No Project - Neighborhood/Community Commercial Development Alternative would provide housing units, increase VTA ridership, and redevelop an underutilized site, meeting project objectives a. and d. to the same extent as the proposed project. However, the No Project – Neighborhood/Community Commercial Development would not provide affordable housing units or construction a new trail, transit plaza, or trailhead improvements. For these reasons, the No Project – Neighborhood/Community Commercial Development would not meet all of the project objectives.

**Conclusions**

The No Project -Neighborhood/Community Commercial Development Alternative would result in similar construction and operational impacts as the proposed project but would not meet any of the identified project objectives.

#### 7.4.1.4 *Reduced Scale Alternative*

The Reduced Scale Alternative would develop one mixed-use building containing up to 239 dwelling units and up to 13,590 square feet of commercial space. However, the second residential only building, associated amenities spaces, and parking lot improvements would not be constructed. Eighty-nine of the 239 dwelling units proposed under the Reduced Scale Alternative would be deed restricted affordable units. Under this Alternative, the on- and off-site trail improvements would also be constructed as in the proposed project.

**Comparison of Environmental Impacts**

The extent of ground disturbing activities required under the Reduced Scale Alternative would be reduced compared to the proposed project, resulting in fewer air quality emissions and impacts to nesting birds and cultural resources during project construction. Although the distance between construction activities and noise sensitive uses would be greater under this alternative, it would not be enough to measurably reduce construction noise impacts compared to the proposed project. This alternative would result in the same significant unavoidable VMT impact as the proposed project.

**Relationship to Project Objectives**

The Reduced Scale Alternative would meet all of the project objectives. However, to a lesser extent than the proposed project due to the reduced number of residential units constructed under this alternative. Additionally, because this alternative would be located on the project site within the Blossom Hill/Cahalan Avenue Urban Village, a designated area for intensification within the city, this alternative would meet the City's goals and policies related to increased development on-site, however, to a lesser degree than the proposed project. For these reasons, the Reduced Scale Alternative would meet all of the project objectives to a lesser extent than the proposed project.

### Conclusion

The Reduced Scale Alternative would construct 1 mixed-use building containing up to 239 dwelling units (including 89 deed restricted affordable units) and up to 13,590 square feet of commercial space as well as on- and off-site trail improvements, transit station improvements, and landscaping. This alternative would result in fewer construction air quality, biological resources, and cultural resources impacts due to the reduced area of excavation associated with this alternative. VMT and construction noise impacts would remain the same as the proposed project. This alternative would meet all of the project objectives however, to a lesser extent as the proposed project.

## 7.4.2 Environmentally Superior Alternative

The CEQA Guidelines state than an EIR shall identify an environmentally superior alternative. Table 7.4-1 summarizes the level of impact for the proposed project and each project alternative.

**Table 7.4-1: Comparison of Impacts from Alternatives to the Proposed Project**

| Significant Impacts of the Proposed Project | Proposed Project | 100 Percent Affordable | No Project (No Development) | No Project (NCC Development) | Reduced Scale |
|---|---|---|---|---|---|
| Air Quality | Less than Significant Impact | Less | Less | Less | Less |
| Biological Resources | Less than Significant Impact with Mitigation | Similar | Less | Similar | Less |
| Cultural Resources | Less than Significant Impact with Mitigation | Similar | Less | Similar | Less |
| Construction Noise | Less than Significant Impact with Mitigation | Similar | Less | Similar | Similar |
| Transportation | Significant Unavoidable impact | Less | Less | Similar | Similar |
| Meets Project Objectives | Yes | Yes | No | No | Yes |

Similar: Impacts would be similar to the proposed project.

Less: Impacts would be reduced compared to the proposed project, but mitigation would still be required.

Greater: Impacts would be greater than proposed project.

As shown in Table 7.4-1 and based on the discussion of project alternatives above, the environmentally superior alternative would be the No Project Alternative, which would avoid all

project impacts. However, the No Project Alternative would achieve none of the project objectives. CEQA Guidelines Section 15126.6 (e)(2) states that "if the environmentally superior alternative is the No Project Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. Therefore, the 100 Percent Affordable Alternative would be the environmentally superior alternative because it would avoid the project's significant unavoidable VMT impact, and would have similar or less impacts compared to the proposed project in other resource areas.

# SECTION 8.0 REFERENCES

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# SECTION 9.0 LEAD AGENCY AND CONSULTANTS

## 9.1 LEAD AGENCY

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# SECTION 10.0 ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| amsl | above mean sea level |
| ATCMs | Airborne Toxic Control Measures |
| CLUP | Airport Comprehensive Land Use Plan |
| AIA | Airport Influence Area |
| ACM | asbestos containing materials |
| AB | Assembly Bill |
| ABAG | Association of Bay Area Governments |
| 2017 CAP | Bay Area 2017 Clean Air Plan |
| BAAQMD | Bay Area Air Quality Management District |
| bgs | below ground surface |
| BMPs | Best Management Practices |
| Btu | British thermal units |
| CalARP | California Accidental Release Prevention |
| CARB | California Air Resources Board |
| BIA v. BAAQMD | California Building Industry Association v. Bay Area Air Quality Management District, 62 Cal. 4th 369 |
| CDFW | California Department of Fish and Wildlife |
| Cal/OSHA | California Department of Industrial Relations, Division of Occupational Safety and Health |
| Caltrans | California Department of Transportation |
| CalEPA | California Environmental Protection Agency |
| CEQA | California Environmental Quality Act |
| CGS | California Geological Survey |
| CALGreen | California Green Building Standards Code |
| CHRIS | California Historical Resources Information System |
| Williamson Act | California Land Conservation Act |
| CRHR | California Register of Historical Resources |
| $CO_2$ | carbon dioxide |
| CO | carbon monoxide |
| CUPA | Certified Unified Program Agency |
| CFCs | chlorofluorocarbons |
| CWA | Clean Water Act |

| | |
|---|---|
| $CO_2e$ | $CO_2$ equivalents |
| $PM_{10}$ | Coarse Particulate Matter |
| CARE | Community Air Risk Evaluation |
| CMP | Congestion Management Plan |
| DTSC | Department of Toxic Substances Control |
| DPM | Diesel Particulate Matter |
| PCBE | Department of Planning, Building and Code Enforcement |
| EIR | Environmental Impact Report |
| FAA | Federal Aviation Administration |
| FAR | Federal Aviation Regulations |
| FEMA | Federal Emergency Management Agency |
| FTA | Federal Transit Administration |
| $PM_{2.5}$ | Fine Particulate Matter |
| ESA | Environmental Site Assessment |
| FHSZS | Fire Hazard Severity Zones |
| FIRMS | Flood Insurance Rate Maps |
| Construction General Permit | General Construction Permit for the State of California |
| GWh | gigawatt hours |
| GWO | Global warming potential |
| GOWC | Great Oaks Water Company |
| GHGs | Greenhouse Gases |
| $O_3$ | ground-level ozone |
| HVAC | Heating, ventilation, and air conditioning |
| US 101 | Highway 101 |
| HFCs | hydrofluorocarbons |
| HMP | Hydromodification Management Plan |
| ITE | Institute of Transportation Engineers |
| IWMP | Integrated Waste Management Plan |
| LEED | Leadership in Energy and Environmental Design |
| LOS | level of service |
| LRT | Light Rail Transit |
| LRAs | Local responsibility |
| LTA | Local Transportation Analysis |

| | |
|---|---|
| LID | Low Impact Development |
| MEI | maximally exposed individual |
| $CH_4$ | methane |
| MT | metric ton |
| MTC | Metropolitan Transportation Commission |
| MBTA | Migratory Bird Treaty Act |
| mpg | miles per gallon |
| mph | miles per hour |
| $MMTCO_2e$ | million metric tons of $CO_2e$ |
| MLD | Most Likely Descendant |
| MRP | Municipal Regional Stormwater NPDES Permit |
| NFIP | National Flood Insurance Program |
| NPDES | National Pollutant Discharge Elimination System |
| NAHC | Native American Heritage Commission |
| NISL | Newby Island Sanitary Landfill |
| $NO_2$ | nitrogen dioxide |
| $N_2O$ | nitrous oxide |
| SJIA | Norma Y. Mineta San José |
| NOD | Notice of Determination |
| NOI | Notice of Intent |
| NOP | Notice of Preparation |
| NOT | Notice of Termination |
| OPR | Office of Planning and Research |
| OITC | Outdoor-Indoor Transmission Class |
| PG&E | Pacific Gas & Electric Company |
| PIO | Park Impact Ordinance |
| PDO | Parkland Dedication Ordinance |
| PM | particulate matter |
| PPV | Peak Particle Velocity |
| PFCs | perfluorocarbons |
| PDA | Priority Development Area |
| ROG | reactive organic gases |
| RHNA | Regional Housing Need Allocation |

| | |
|---|---|
| RWQCB | Regional Water Quality Control Board |
| Basin Plan | San Francisco Bay Basin Plan |
| SJCE | San José Clean Energy |
| SJFD | San José Fire Department |
| SJPD | San José Police Department |
| RWF | Santa José/Santal Clara Regional Wastewater Facility |
| IWMP | Santa Clara County Integrated Watershed Management Program |
| Habitat Plan | Santa Clara Valley Habitat Plan/Natural Community Conservation Plan |
| VTA | Santa Clara Valley Transportation Authority |
| Valley Water | Santa Clara Valley Water District |
| SHMA | Seismic Hazards Mapping Act |
| SB | Senate Bill |
| STC | Sound Transmission Class |
| SFHAs | Special Flood Hazard Areas |
| SMGB | State Mining Geology Board |
| SRAs | State responsibility areas |
| SR | State Route |
| SWRCB | State Water Resources Control Board |
| SWPPP | Storm Water Pollution Prevention Program |
| $SF_6$ | sulfur hexafluoride |
| $SO_x$ | sulfur oxides |
| SMARA | Surface Mining and Reclamation Act |
| SCS | Sustainable Communities Strategy |
| TACs | Toxic Air Contaminants |
| TCMs | Treatment Control Measures |
| TCRs | Tribal Cultural Resources |
| USACE | United States Army Corps of Engineers |
| EPA | United States Environmental Protection Agency |
| USFWS | United States Fish and Wildlife Service |
| USGS | United States Geological Survey |
| VMT | vehicle miles traveled |
| VCP | vitrified clay pipe |