NORTH SAN PEDRO APARTMENTS PROJECT INITIAL STUDY/ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE BRANDENBURG MIXED-USE PROJECT/ NORTH SAN PEDRO HOUSING SITES

FILE NO. CP11-034

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

November 2011

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FILE NO. CP11-034

Submitted to the:

City of San Jose
Department of Planning, Building
and Code Enforcement
200 East Santa Clara Street, 3rd Floor
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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

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SECTION 1.0 INTRODUCTION AND PURPOSE

This Addendum and Initial Study of environmental impacts is being prepared to conform to the requirements of the Public Resources Code California Environmental Quality Act (CEQA Statutes), the California Code of Regulations Section 15000 et. seq. (CEQA Guidelines), and the regulations and policies of the City of San José.

The Initial Study evaluates the environmental impacts which might reasonably be anticipated to result from the North San Pedro Apartments Project (proposed project) located in Downtown San José. As described in detail in Section 3.3, Project Description, the proposed project would include the construction of an approximately 67 foot, six-story residential building (plus 12 additional feet for the building's three stair cores). The building would contain 135 affordable for-rent residential units, approximately 52 vehicle parking spaces, and 34 bicycle parking spaces.

The proposed project is intended to address the housing needs of very low and low-income residents who live in San José. According to the City's Housing Element,[1] 57 percent of the City's regional housing needs for the 2007 to 2014 Regional Housing Needs Allocation (RHNA) period (34,721 dwelling units) must be affordable housing units (19,271). The current total need has increased 33 percent over the 1999 to 2009 RHNA period.

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

1.1 Tiering of the Environmental Review

CEQA Statutes Section 21093(b) states that Environmental Impact Reports (EIRs) shall be tiered whenever feasible, as determined by the Lead Agency. "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/Negative Declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project (CEQA Guidelines Section 15152(a)).

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

In accordance with CEQA Statutes Sections 21093(a) and 21093(b) and CEQA Guidelines Sections 15152(a) and 15168(c)(1), this Initial Study tiers off the *Brandenburg Mixed Use Project/North San Pedro Housing Sites Final EIR* (hereinafter referenced as the Brandenburg EIR).[2] The Brandenburg EIR is a program-level EIR that evaluated the impacts of a group of related actions, including amendments to San José's General Plan, rezoning, and associated land use permits, appropriate acquisition and assembly of property, street abandonment and improvements. The development of approximately 60,000 square feet of commercial uses and approximately 1,500 residential units was also proposed for the sites.

The proposed project would add a six-story residential building (including five stories of residential uses and the on-grade parking garage) with 135 residential units within the project area evaluated in the

[1] The Housing Element is one of seven State mandated elements, which must be prepared and included in the City's General Plan. The Housing Element provides goals, policies and actions that help the City plan for the housing needs of all segments of the City's population.

[2] A copy of the *Brandenburg Mixed Use Project/North San Pedro Housing Sites Final EIR Final EIR* is available for public review at the Department of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, San José, during normal business hours. State Clearinghouse #2003012046 certified by the City Council on June 15, 2004.

Brandenburg EIR. Subsequent environmental analysis is needed only when there are significant departures from the group of related actions described above, or if there are circumstances particular to a specific project site that have not been analyzed in the EIR.

In accordance with CEQA Guidelines Section 15162 and 15063 and CEQA Statutes Section 21166, this Initial Study has been prepared to evaluate the environmental impacts of the proposed project, to determine what impacts, if any, might be significant, and to determine whether the project's impacts were adequately addressed in the Brandenburg EIR. This Initial Study is used to determine the extent to which the impacts of the currently proposed development are the same or different than those addressed in the Brandenburg EIR. In accordance with the CEQA Guidelines, each potential impact will be evaluated as to whether it was adequately identified in the previous Final EIR, or is a substantially new or greater impact. If a new significant impact is forecast to result from the proposed project, the Initial Study will evaluate the extent to which it can be mitigated.

1.2 Addendum to the Final EIR

CEQA Guidelines Section 15164 states that an addendum to a previously certified EIR should be prepared if some changes or additions are necessary but none of the conditions require the preparation of a subsequent EIR.

A subsequent EIR would be required if:

a. Substantial changes are proposed in the project involving new significant impacts or a substantial increase in the severity of previously identified significant impacts;

b. Substantial changes occur with respect to the circumstances under which the project will occur, involving new significant impacts or a substantial increase in the severity of previously identified significant impacts;

c. New important information not previously known shows:

   i. The project will have one or more significant impacts not discussed in the previous EIR;

   ii. Significant impacts will be substantially more severe than shown in the previous EIR;

   iii. Mitigation or alternatives previously found to not be feasible would, in fact, be feasible and would substantially reduce one or more significant impacts, but the project proponents decline to adopt the mitigation or alternative; or

   iv. Mitigation or alternatives which are considerably different from those in the previous EIR would substantially reduce one or more significant impacts, but the project proponents decline to adopt the mitigation or alternative.

SECTION 2.0 PROJECT INFORMATION

2.1 Project Title

North San Pedro Apartments

2.1.1 Project Location

The 0.73-acre (31,685 square foot) project site is located at the southeast corner of Bassett and Terraine Streets in the City of San José (City) in Santa Clara County. The project site is located in Downtown San José and is bounded by the Union Pacific Railroad line to the north, a segment of Terraine Street to the east, Bassett Street to the south and State Route (SR) 87 to the west (See Figure 1).

The project site is designated as Parcel A and part of Parcel B in the Brandenburg EIR. An aerial view of the project site and surroundings is depicted Figure 2. As shown in Figure 2, the majority of surrounding land uses within the project vicinity is vacant with some commercial, office, and residential uses. The four-story Legacy Foundation Apartments is located directly north of the project site across the Union Pacific Railroad.

2.2 Project Sponsor's Name and Address

First Community Housing
Vianey Nava
75 East Santa Clara Street, Suite 1300
San José, California 95113
(408) 291-8650

2.3 Lead Agency Contact

Lesley Xavier, Planner II
Department of Planning, Building, and Code Enforcement, City of San José
200 East Santa Clara Street, 3rd Floor, Tower
San José, California 95113
(408) 535-7800

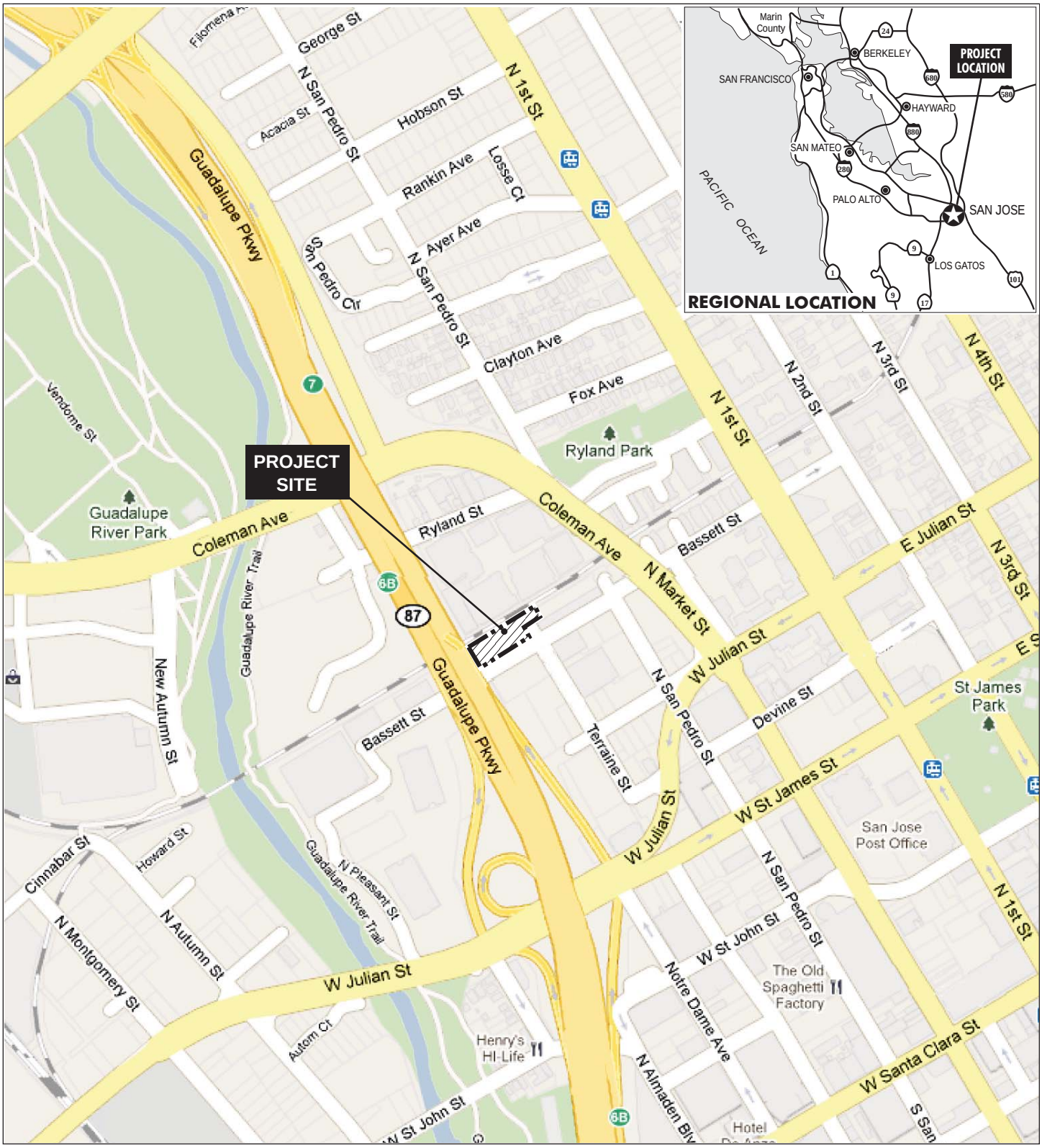
2.4 Assessor's Parcel Number

259-23-027, 259-23-016 and part of 259-51-006

2.5 General Plan Land Use Designation and Zoning Designation

General Plan Land Use Designation: Core Area

Zoning Designation: Downtown Primary Commercial (DC)



LSA

FIGURE 1

N

0 300 600

FEET

Project Area

North San Pedro Apartments Project

Project Vicinity and Regional Location Map

SOURCE: GOOGLE MAPS; LSA ASSOCIATES, INC., 2011.

I:FCY1101 N San Pedro\figures\Fig_1.ai (6/1/11)

LSA

FIGURE 2

N

0 150 300

FEET

Project Site

North San Pedro Apartments Project

Aerial Photograph

SOURCE: GOOGLE EARTH, MAY 2011; LSA ASSOCIATES, INC., 2011.

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SECTION 3.0 PROJECT DESCRIPTION

The following text briefly describes the project location and history of the site, as well as the physical project itself. As previously described, Figures 1 and 2 show the regional location of the proposed project and its local context. Figures 3a, 3b, 3c, and 3d show the proposed project site plan for the garage, second, third, and roof floors, respectively. Figure 4 shows elevations of the proposed building.

3.1 Project Location

The 0.73-acre (31,685 square foot) project site is located at the southeast corner of Bassett and Terraine Streets in downtown San José. The project site is bounded by the Union Pacific Railroad line to the north, a segment of Terraine Street to the east, Bassett Street to the south and State Route (SR) 87 to the west (See Figure 1). The southern portion of the site along Bassett Street consists of an unpaved lot surrounded by chain link fencing. The northern and easternmost portions of the site along the Union Pacific Railroad line consist of an unpaved dirt lot with an asphalt road that intersects with the end of Terraine Street (see Figure 2). Vehicular access to the site is currently available on Terraine Street. There is a public sidewalk along Bassett Street along the southern edge of the project site. A total of seven trees are located on the project site.

The General Plan land use designation for project site is Core Area and the zoning designation is Downtown Primary Commercial (DC).

3.2 Project Site History

The project site consists of two parcels and a portion of a third on the north side of Bassett Street and on the west side of Terraine Street in downtown San José (APN 259-23-027, 259-23-016 and part of 259-51-006). The site area was used for agricultural purposes until the San Francisco and San José Railroad line opened in 1864. The project site was first developed as a railroad yard by the Southern Pacific Railroad Company in the 1890s, and portions of the site area were subsequently developed for additional commercial and industrial activities.[3] Between 1864 and 1910, businesses such as a livery stable, box companies, fruit packing companies, and a hotel were developed in the vicinity of the project site on West Bassett and North Market Streets. During the 1950s, storage and other commercial uses were prevalent in the area.[4] The rail yard operations on the site diminished between the 1950s and the late 1980s, and the project site has been relatively vacant since the late 1980s.[5]

The project site is currently vacant, and is located within the Brandenburg Mixed-Use Project area, for which the Brandenburg EIR was certified in June 2004. The Brandenburg EIR analyzed a group of related actions, including amendments to San José's General Plan, rezoning, and associated land use permits, development agreements between the Redevelopment Agency and various developers of the site, appropriate acquisition and assembly of property, street abandonment and infrastructure improvements including but not limited to streets, sidewalks, parks and other public spaces, water, sanitary sewer, and storm utilities and utility undergrounding. The development of approximately 60,000 square feet of commercial uses and approximately 1,500 residential units was analyzed.

[3] Krazan and Associates, Inc., 2000. Phase I Environmental Site Assessment Update: College Park Yard Parcel 3 and 4, North First Street and Ryland Street San José, California, November 1.

[4] LSA Associates, Inc., 2003. *Brandenburg Mixed Use Project/North San Pedro Housing Sites Final Environmental Impact Report* (State Clearinghouse #2003012046).August.

[5] Krazan and Associates, Inc., 2000, op. cit.

3.3 Description of the Proposed Project

The following section includes a detailed description of the proposed project. The project proponent is First Community Housing, a local affordable housing designer, developer, and manager.

3.3.1 Residential

The proposed project would develop the site with 135 affordable for-rent residential units in a 75,626 square foot, six-story building. The building would be approximately 67 feet in height, plus approximately 12 additional feet for the building's three stair cores. The "E"-shaped building would have three north/south wings connected via an open walkway on the north end of the building (see Figures 3a-3d). The proposed project would accommodate low to very low-income individuals, earning 30 to 50 percent of the area's median income.

The residential units would be included on floors two through six. The 135 residential units would include 10 one-bedroom units, 124 studio units, and 1 two-bedroom for the building manager. The one-bedroom units would be approximately 650 square feet and the studio units would be approximately 400 square feet in size. The building manager's unit would be 900 square feet and would be located on the second floor. The proposed project would have a total residential density of approximately 185 units per acre. The second floor of the building would also include a community room, gym, laundry area, computer lounge, a social services office, and a manager's office. The social services office would be used by Housing Choices Coalition, the resident services provider for developmental disabled tenants. Housing Choices Coalition would use the social services office on a part-time basis to interview resident clients and work on case notes of their interactions.

Figure 4 shows several elevation views of the proposed project. The character of the proposed building would reflect the residential use and a contemporary aesthetic. The proposed building would include the following architectural materials and features: cement plaster, corrugated metal siding, opaque glass, metal guardrails, steel pipe columns, greenscreens, and flat canopy roofs.

3.3.2 Access, Circulation, and Parking

The proposed project includes a podium parking garage (see Figure 3a). Vehicular ingress and egress to the parking garage would be provided at Bassett Street. The 26-foot-wide two-way access would include a gate set back approximately 15 feet from the sidewalk. The garage would include 52 parking spaces, 3 of which are American Disabilities Act (ADA) accessible.

A total of 34 secure bicycle parking spaces would be provided throughout the residential building, 16 of which are located in the parking garage and 18 spaces on the podium level.

Primary pedestrian access to the building would be provided at the building entrance on Bassett Street (see Figure 4). The entrance would be accented with a rock garden. The building lobby, as well as two elevators and a stairway, would be provided through this entrance. Four additional stairways would be provided on the Bassett Street elevation. Existing sidewalks along Bassett Street would remain, and may be improved within City's standards.

3.3.2 Landscape and Open Space

The proposed project would include approximately 14,160 square feet of common open space. The proposed project includes 8,500 square feet of open space in two interior landscaped courtyards between the three wings on the second floor (see Figure 3b). These courtyards area are for use by project residents

and include benches and plantings. The proposed project also includes a 5,660 square foot "living" roof[6] area that would partially cover the roof with vegetation and includes a drainage system.
Several units have private balconies that front the courtyards. The balconies would provide a total of 660 square feet of private exterior space.

3.3.3 Green Building Features

The proposed project would incorporate green building design features such as a vegetated rooftop "living" area, a rain garden, passive solar lighting, recycled building materials, and energy efficient windows. The project would be a LEED for Homes Mid-Rise Pilot registered development and the project applicant is pursuing LEED Platinum certification from the United States Green Building Council.

The proposed project is designed as a transit-oriented development (TOD) and is located within a quarter-mile from bus and light rail services, a half a mile from a commuter rail line and a quarter-mile from an employment center in a central business district. All residents would also receive a free, annual Santa Clara Valley Transportation Authority (VTA) Eco Pass for use on all bus and light rail services throughout Santa Clara County.

3.4 Other Project Components

The following section includes a description of other project components, including grading activities, utilities and infrastructure, and the project schedule.

3.4.1 Grading

The site of the proposed project is relatively level and undeveloped. Grading and excavation activities would occur during project construction within the project site, with an approximate three-foot deep excavation within the right-of-way on Bassett and Terraine Streets. Construction debris would be collected and off-hauled, yielding approximately 3,000 cubic yards of debris.

3.4.2 Utilities and Infrastructure

The project site is located in an urban area and although the site is not currently served by existing utility systems, public utilities infrastructure is provided in the immediate vicinity, including: water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. The proposed project would connect to these existing facilities, although upgrades for existing infrastructure in the vicinity of the site may be required.

3.4.3 Project Schedule

The preliminary project construction schedule with anticipated start dates and estimated duration of activities is provided below:

- Excavation and grading – March 2013 (approximately one month)
- Building construction –April 2013 (approximately 20 months)

3.5 City Actions/Approvals

The proposed project would require the following City approvals:

[6] A "living roof" can serve several purposed for a building, such as absorbing rainwater, providing insulation for the building, helping lower urban air temperatures, and creating habitat for wildlife.

- Conditional Use Permit
- Building Permit

3.6 Surrounding Land Uses and Setting

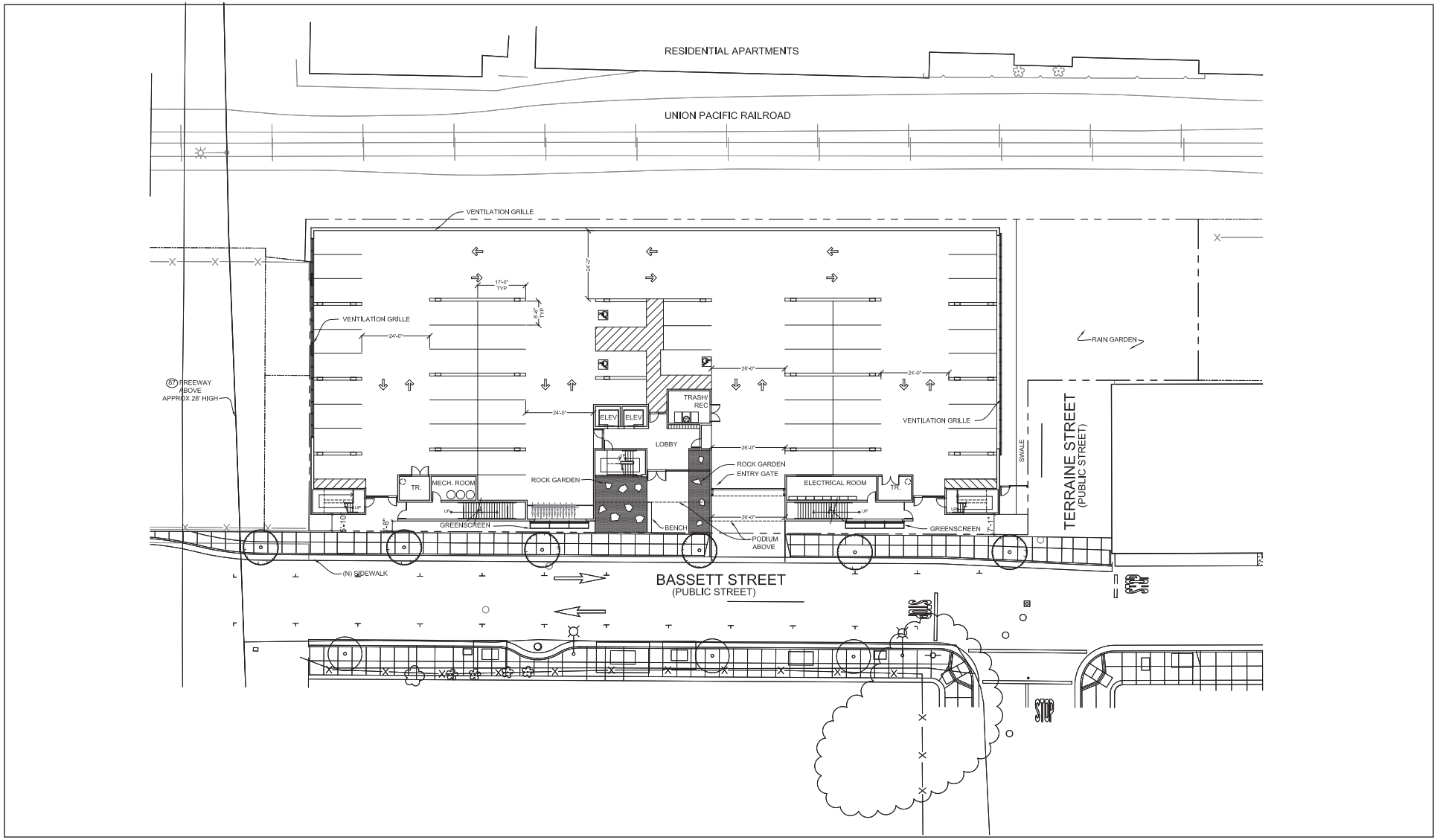
The project site is located within the City's downtown area. Commercial, office and residential uses are within the project vicinity, and a number of vacant parcels also surround the project area.

North. The project site is bordered immediately to the north by the Union Pacific Railroad right-of-way. A four-story apartment complex known as Legacy Foundation Apartments is located beyond the railroad tracks.

East. The site is bordered immediately to the east by a one-story commercial building. North San Pedro Street is located one block further east of the project site, and residential uses are located further east, past Coleman Avenue and North Market Street.

South. The site is bordered to the south by Bassett Street; a two-lane roadway. Vacant parcels front Bassett Street. Office uses with a surface parking area are located further south, at the intersection of Terraine Street and Old West Julian Street.

West. The project site is bordered immediately by SR-87, an elevated multi-lane freeway. Bassett Street continues west under the freeway and ends at the intersection of North Pleasant Street. To the west of SR-87, commercial and office uses front the western portion of Bassett Street.



LSA

FIGURE 3a

PROJECT
TRUE
N

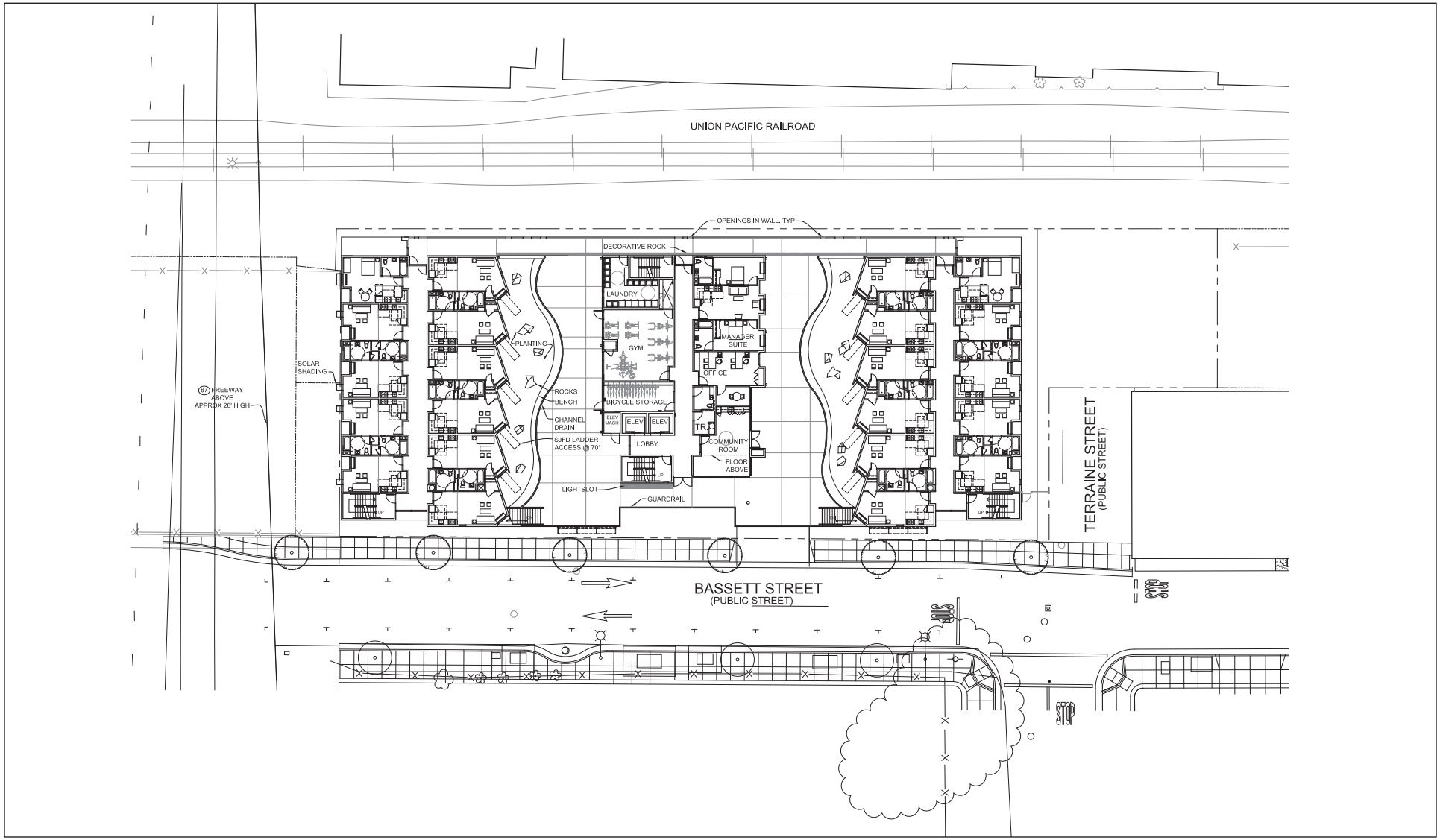
NOT TO SCALE

SOURCE: OJK ARCHITECTS & PLANNING, NOVEMBER 2010.

I:FCY1101 N San Pedro\figures\Fig_3a.ai (6/1/11)

North San Pedro Apartments Project

Proposed Schematic Site Plan, Parking Floor



LSA

FIGURE 3b

PROJECT
TRUE
N

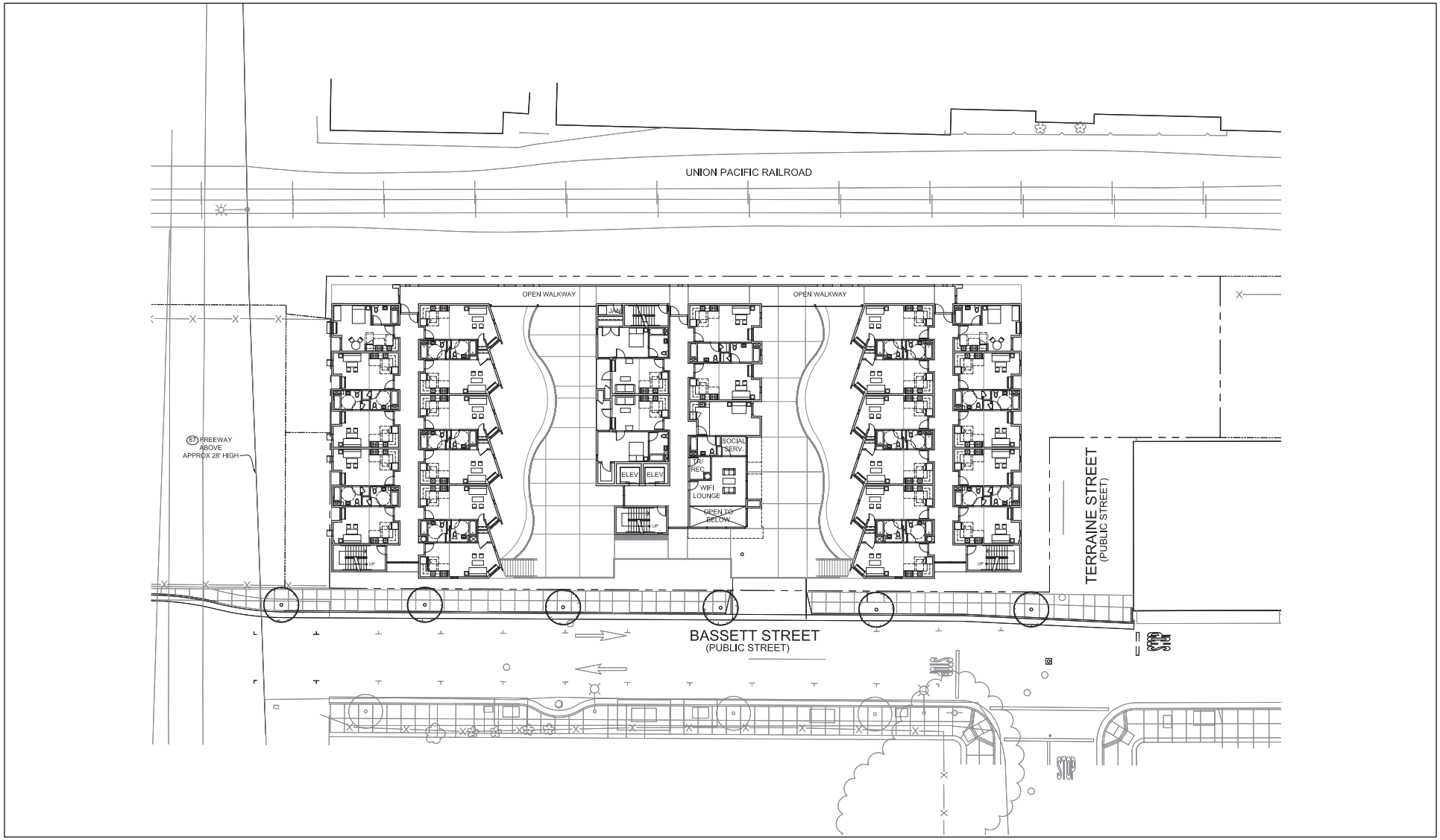
NOT TO SCALE

North San Pedro Apartments Project

Proposed Schematic Site Plan, Podium

SOURCE: OJK ARCHITECTS & PLANNING, NOVEMBER 2010.

I:FCY1101 N San Pedro\figures\Fig_3b.ai (6/1/11)



LSA

FIGURE 3c

PROJECT
TRUE
N

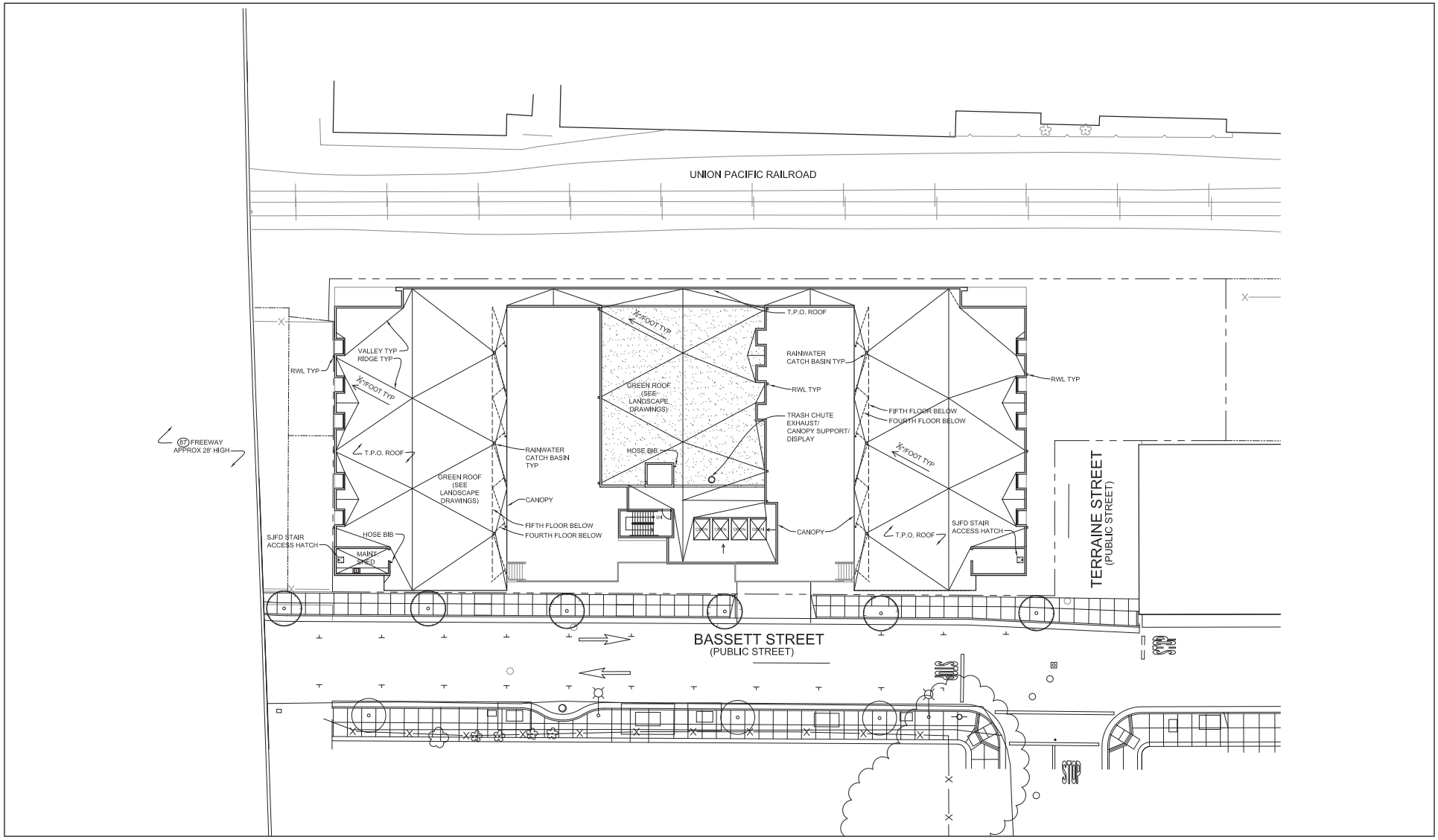
NOT TO SCALE

SOURCE: OJK ARCHITECTS & PLANNING, NOVEMBER 2010.

I:FCY1101 N San Pedro\figures\Fig_3c.ai (6/2/11)

North San Pedro Apartments Project

Proposed Schematic Site Plan, Third Floor



LSA

FIGURE 3d

PROJECT
TRUE
N

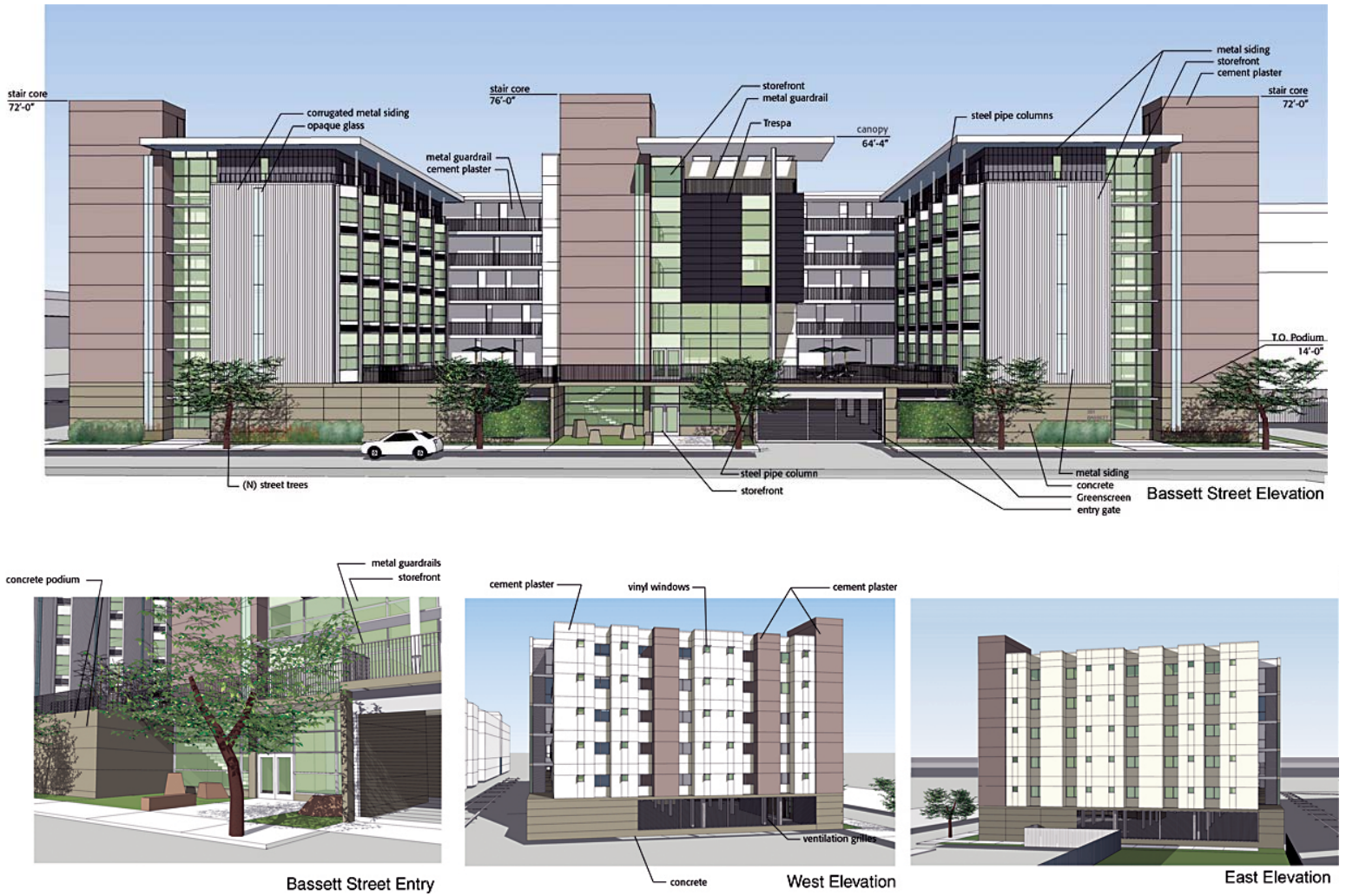
NOT TO SCALE

SOURCE: OJK ARCHITECTS & PLANNING, NOVEMBER 2010.

I:FCY1101 N San Pedro\figures\Fig_3d.ai (6/2/11)

North San Pedro Apartments Project

Proposed Schematic Site Plan, Roof Level



LSA

FIGURE 4

PROJECT
TRUE
N

NOT TO SCALE

SOURCE: OJK ARCHITECTS & PLANNING, JUNE 2010.

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North San Pedro Apartments Project

Proposed Schematic Exterior Elevation

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SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND DISCUSSION OF IMPACTS

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Initial Study tiers off the *Brandenburg Mixed Use Project/North San Pedro Housing Sites Final EIR* (Brandenburg EIR), certified on June 2004, which is, hereby, incorporated by reference, as it addressed a group of related actions, including amendments to San José's General Plan, rezoning, and associated land use permits, appropriate acquisition and assembly of property, street abandonment and improvements. The amount of commercial and residential development proposed herein was included and analyzed in the certified Brandenburg EIR.

This chapter describes the existing environmental conditions on and near the project site, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the "proposed project" with those of the "approved project" (i.e., development approved in the Brandenburg EIR) and to identify whether the proposed project would likely result in new significant environmental impacts. The right-hand column in the checklist indicates the source(s) for the answer to each question. The sources cited are identified at the end of this chapter in subsection 4.18, Checklist Sources. Standard Measures are noted where compliance with existing City policies would reduce an impact to a less-than-significant level.

In addition, each impact is numbered using an alpha-numerical system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first impact in the hazards and hazardous materials section. Mitigation measures and conclusions are also numbered to correspond to the impacts they address. It should be noted that the numerical system that identifies mitigations within this Initial Study/ Addendum does not directly correspond to the numbering system in the Brandenburg EIR, and therefore, the corresponding mitigation measure from the Brandenburg EIR is referenced prior to the description of each mitigation measure.

The letter codes used to identify environmental issues are shown in Table 1.

Table 1: Letter Codes of Environmental Issues

Letter Code	Environmental Issue
AES	Aesthetics
AG	Agricultural Resources
AIR	Air Quality
VEG	Biological Resources
CUL	Cultural Resources
GEO	Geology and Soils
GHG	Greenhouse Gas Emissions
HAZMAT	Hazards and Hazardous Materials
HYD	Hydrology and Water Quality
LU	Land Use and Planning
MIN	Mineral Resources
NOI	Noise and Vibration
POP	Population and Housing
SVCS	Public Service
REC	Recreation
TRAN	Transportation
UTIL	Utilities and Service Systems

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 Project Site and Surrounding Area

The 0.73-acre project site is located at the southeast corner of Bassett and Terraine Streets in downtown San José, in an area visually characterized by commercial and light industrial development. As shown in Figure 5, the four-story Legacy Foundation Apartments is located directly north of the project site across the Union Pacific Railroad line. The southern portion of the project site along Bassett Street consists of an unpaved lot surrounded by chain link fencing. The southern portion of the project site fronts a vacant parcel on the other side of Bassett Street. The northern and easternmost portions of the site along the Union Pacific Railroad line consist of an unpaved dirt lot with an unused paved asphalt road that intersects with the end of Terraine Street. The easternmost portion of the site along Terraine Street faces a one-story commercial building, occupied by Mektra Inc., a semiconductor equipment company. Sidewalks are present along the Bassett Street site frontage, along the southern portion of the site. There is no sidewalk along the Terraine Street site frontage, along the eastern portion of the site.

4.1.1.2 City of San José General Plan

The City's General Plan provides policies, which address aesthetic quality related to both the natural and built environment. The General Plan aims to retain and encourage diversity and individual expression in the built environment, while encouraging quality new construction. The Brandenburg EIR addressed Urban Design Policies 1, 2, 6, 8, and 24. In addition to the policies of the General Plan, future development would be required to comply with the following City policies and guidelines:

- *Outdoor Lighting Policy* (City Council Policy, 4-3, as revised 6/20/00);
- Residential Design Guidelines;[7] and
- Downtown Design Guidelines.[8]

4.1.2 Environmental Discussion of Impacts

Aesthetics						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐ 1,2,3	
Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	☐	☐	☐	☒	☐ 1,2,3	
Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐ 1,2,3	
Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	☐	☐	☒	☐	☐ 1,2,3	

[7] San José, City of, 1999. Department of Planning, Building, and Code Enforcement. *Residential Design Guidelines Toward Community*. April.

[8] San José, City of, 2004. *Downtown Design Guidelines*. July.

4.1.2.1 Impacts to Scenic Vistas

The Brandenburg EIR did not identify significant impacts to existing views from public areas that would result from implementation of the mixed-use development. Direct views of the project site would occur from the northbound side of State Route (SR) 87. Views from the North Market Street/Coleman Avenue Overpass would be distant and slightly obstructed by existing trees and one-story commercial buildings from North Market Street and by the four-story Legacy Foundation Apartments from Coleman Street.

The project site is located in a highly urbanized area and is not located within a scenic viewshed or along a scenic highway. As a result, the introduction of a new six-story building onto the site would not substantially alter views of the site from surrounding areas and the proposed project would not result in any new or more significant impacts to scenic vistas than were described in the Brandenburg EIR.

4.1.2.2 Change in Visual Character

The Brandenburg EIR identified the project site for potential mixed-use development. The proposed project would include: removal of all seven trees on the site, minor grading and excavation activities, and the construction of a six-story residential building. The proposed residential building would be approximately 67 feet in height, (plus an additional 12 feet for the building's three stair cores) and would contain approximately 135 residential units, 52 parking spaces, and 34 bicycle parking spaces.

The proposed project would change the visual character of the project site from an unpaved dirt lot to an urban style building with an increased presence on the street. The new six-story residential building would be located in an area with vacant parcels, single-story commercial buildings, and a four-story residential complex. No historic buildings within a State scenic highway exist on the project site. The Brandenburg EIR identifies trees within the project site as ornamental and not qualified as ordinance-sized trees. Although the proposed project would remove seven existing trees, the proposed project would include the planting of new street trees and other landscaping features.

The introduction of a new six-story building onto the site would not substantially alter views of the site from surrounding areas and would generally blend with the existing four-story residential complex to the north, and taller and lower structures planned for the Brandenburg Mixed-Use project and North San Pedro Housing sites.

The visual changes to the project site that would result from the proposed project would seem appropriate and even beneficial, based on the context of the project site, in downtown San José. The proposed project would develop an unoccupied and underutilized site. The introduction of a residential population to the site would increase daytime and nighttime activity within and around the area and enhance the visual appeal of this stretch of Bassett Street. Development of the project site with residential uses would create a more appealing urban environment and would create linkages between the Brandenburg area, downtown, and outlying neighborhoods. The proposed project would enhance the visual quality of the project site and surroundings.

The continued implementation of the City's General Plan policies with regard to site planning, urban design, and landscaping would help ensure that no significant adverse impacts would result from the implementation of the proposed project.

In addition to the General Plan policies and City policies and guidelines outlined in Section 4.1.1, the proposed project would be subject to the City's Design Review Process and a Development Application. As a standard condition to be included in the development permit, the proposed project is required to conform to the City's Residential Design Guidelines and Downtown Design Guidelines.

Implementation of the urban design concepts and guidelines above would ensure the change in visual character that would result from implementation of the proposed project would be less than significant.

4.1.2.3 Light and Glare Impacts

The project site is located in an urban area with many sources of light and glare. The proposed project would develop the site with residential uses and it is anticipated that the project would include exterior lighting for safety and security. The lighting associated with the proposed project would increase the light in the project area. The proposed project would be required to conform to the *City's Outdoor Lighting Policy* (4-3), which includes the use of low-pressure sodium (LPS) outdoor security lighting on-site along walkways, entrance areas, common outdoor areas, and parking area. Compliance with this policy would ensure that light and glare impacts associated with the proposed project would be less than significant.

4.1.3 Conclusions

The proposed project would conform to applicable General Plan policies, the *Outdoor Lighting Policy*, the Residential Guidelines, and the Downtown Design Guidelines, and would not result in any new or more significant visual and aesthetic impacts than those addressed in the certified Brandenburg EIR. **(No New Significant Impact)**

Photo 1: View of northern portion of project site, looking west from Terraine Street

Photo 2: View of southern portion of project site, looking east from Bassett Street

LSA

FIGURE 5

North San Pedro Apartments Project

Site Photos

SOURCE: LSA ASSOCIATES, INC., 2011.

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4.2 AGRICULTURAL RESOURCES

4.2.1 Setting

The project site is located on urban and built up land in Downtown San José and there is no farmland within the project vicinity.

4.2.2 Environmental Checklist and Discussion of Impacts

Agriculture Resources						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
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?	☐	☐	☐	☒	☐ 1,4	
Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐ 1,5	
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))?	☐	☐	☐	☒	☐ 1	
Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐ 1	
Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒	☐ 1	

4.2.2.1 Farmland Mapping and Monitoring Program

The project site and vicinity are located within an urban area. There are no agricultural resources located on or near the project site. The site is classified as "Urban and Built-Up Land" by the State Department of Conservation.[9] Therefore, implementation of the proposed project would not convert agricultural land to non-agricultural uses. The proposed project would not result in the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to a nonagricultural use.

[9] California Department of Conservation, 2009. Division of Land Resource Protection, Farmland Mapping and Monitoring Program. *Santa Clara County Important Farmland 2008* (map). Website: www.consrv.ca.gov/dlrp/fmmp/index.htm. July.

4.2.2.2 Williamson Act

The project site is zoned as Downtown Primary Commercial (DC) on the City's zoning map. Therefore, the proposed project would not conflict with existing zoning for agricultural use, or a Williamson Act contract.[10]

4.2.2.3 Forest Land

The proposed project would not conflict with existing zoning for, or cause rezoning of, forest land or timberland, nor result in the loss of forest land or conversion of forest land to non-forest uses.

4.2.2.4 Conversion of Farmland to Non-Agricultural Use

The proposed project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to nonagricultural use or conversion of forest land to non-forest use.

4.2.3 Conclusion

The proposed project would not result in impacts agricultural and forest resources. **(No Impact)**

[10] California Department of Conservation, 2006. *Santa Clara County Williamson Act Lands 2006* (map). Website: ftp://ftp.consrv.ca.gov/pub/dlrp/WA/Map%20and%20PDF/Santa%20Clara/santa%20clara%20wa%2006_07.pdf.

4.3 AIR QUALITY

4.3.1 Setting

4.3.1.1 City of San José General Plan

In connection with the implementation of the Clean Air Plan (CAP), various policies in the City's General Plan have been adopted that avoid or mitigate air quality impacts from development projects. The City of San José has the following policies related to the proposed project that would reduce air quality impacts:

- *Air Quality Policy 1*. The City should take into consideration the cumulative air quality impacts from proposed developments and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region's Clean Air Plan and State law.
- *Air Quality Policy 2*. Expansion and improvement of public transportation services and facilities should be promoted, where appropriate, to both encourage energy conservation and reduce air pollution.
- *Air Quality Policy 3*. The City should urge effective regulation of those sources of air pollution, both inside and outside of San José, which affect air quality. In particular, the City should support Federal and State regulations to improve automobile emission controls.
- *Air Quality Policy 4*. The City should foster educational programs about air pollution problems and their solutions.
- *Air Quality Policy 5*. In order to reduce vehicle miles traveled and traffic congestion, new development within 1,000 feet of an existing or planned transit station should be designed to encourage the usage of public transit and minimize the dependence on the automobile through the application of site design guidelines.
- *Transportation Policy 17.* Pedestrian travel should be encouraged as a mode of movement between residential and non-residential areas throughout the City and in activity areas such as schools, parks, transit stations, and in urban areas, particularly the Downtown Core and Frame Areas and neighborhood business districts by providing pedestrian facilities that are pleasant, safe, accessible to people with disabilities, and convenient.

In addition to the policies of the General Plan, the proposed project is also subject to the City's Grading Ordinance, which requires that all earth moving activities shall include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

4.3.1.2 Background Information

Ambient air quality has basically remained unchanged since the approval of the Brandenburg EIR. The Bay Area Air Quality Management District (BAAQMD) has made two regulatory changes since the Brandenburg was certified. Revised BAAQMD *CEQA Guidelines* were adopted in June 2010 that provide new and updated CEQA thresholds for analyzing air quality impacts. In general, the new BAAQMD *CEQA Guidelines* have lowered the emissions thresholds for identifying project impacts. The 2010 Clean Air Plan[11] (CAP) was adopted in September 2010. The Bay Area CAP is the latest Clean Air Plan which contains district-wide control measures to reduce ozone precursor emissions (i.e., ROG and NOx) and particulate matter.

An air quality plan describes air pollution control strategies to be implemented by a city, county, or region classified as a non-attainment area. The main purpose of an air quality plan is to bring an area into compliance with the requirements of federal and State air quality standards.

The BAAQMD uses the assumptions and projections of local planning agencies to determine control strategies for regional compliance status. Since the CAP is based on the emissions calculations for certain

[11] Bay Area Air Quality Management District (BAAQMD), 2010. *Bay Area 2010 Clean Air Plan*. September 15.

land uses contained in local General Plans, projects that are deemed consistent with the applicable General Plan are usually found to be consistent with the applicable air quality plan. The proposed project would not conflict with any of the control measures designed to bring the region into attainment; therefore the proposed project would not conflict with or obstruct implementation of CAP.

4.3.1.3 Sensitive Receptors

The BAAQMD defines sensitive receptors as facilities where sensitive population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, schools, playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medicinal clinics. Existing sensitive receptor near the project site include an apartment complex (Legacy Foundation Apartments) to the north. The closest off-site existing sensitive receptor is located east of Market Street.

4.3.2 Environmental Checklist and Discussion of Impacts

Air Quality						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☐	☒ 1,3,6	
Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☐	☒ 1,3,6	
Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☐	☒ 1,3,6	
Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☐	☒ 1,3,6	
Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☐	☒	1

4.3.2.1 Regional and Local Air Quality Impacts

The development of the proposed project would contribute to the significant regional and local air quality impacts identified in the certified Brandenburg EIR. The proposed project, however, would not result in any new or more significant regional or local air quality impacts than described in the Brandenburg EIR. The Brandenburg EIR identified Mitigation Measure AQ-2 to be incorporated into new development in the Brandenburg Mixed-Use project site. The mitigation measure would reduce air quality impacts, and regional emissions would be less than significant.

Based on the latest BAAQMD CEQA Guidelines, according to screening procedures for projects that may approach or exceed the significance criteria, low-rise apartment projects that contain fewer than 451 dwelling units would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the thresholds of significance. As this project will include up to 135 dwelling units, the project would not individually exceed the BAAQMD's significance criteria for regional air pollutants.

The impacts to air quality from criteria air pollutant and precursor emissions related to project operations would be less than significant.

Project-related regional emission would not exceed the BAAQMD thresholds of significance for ozone precursors, however, the proposed project must implement measures identified in the Brandenburg EIR to reduce regional air quality impacts. Modification of Impact AQ-2 identified in the Brandenburg EIR addresses updated BAAQMD CEQA Guidelines specific to the proposed project only and does not address a new impact of the project that was not previously evaluated.

Impact AQ-2: Project-related regional emission would not exceed the BAAQMD thresholds of significance for ozone precursors. **(Less Impact than the Approved Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM AQ-2: The BAAQMD *CEQA Guidelines* document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project and shall be implemented for the proposed project:

- Provide neighborhood-serving shops and services within or adjacent to residential development.
- Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
- Provide shuttle service to regional transit system or multimodal center.
- Provide shuttle service to major destinations such as employment centers, shopping centers and schools.
- Provide bicycle lanes and/or paths, connected to community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide satellite telecommunication centers in large residential developments.
- Provide secure and conveniently located bicycle and storage for residents.
- Wire each housing unit to allow use of emerging electronic communication technology.
- Implement feasible TDM measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.
- Provide a subsidized Ecopass for each resident for the proposed project.

The entire study area identified in the Brandenburg EIR would exceed the significance thresholds even with implementation of Mitigation Measure AQ-2. The proposed project would consist of 135 mid-rise apartment units, which would be well below the screening criteria of 451 units. Therefore, individually the project would not exceed the significance thresholds and the project's regional air quality impacts would be less than the impact from the approved project.

4.3.2.2 Construction-Related Impacts

Construction activities would temporarily affect local air quality. Construction activities such as earth-moving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water-based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application. Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying materials are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of Particulate Matter (PM) downwind of construction activity.

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

Impact AQ-1: Demolition and construction period activities could generate significant dust, exhaust, and organic emissions. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM AQ-1: Consistent with guidance from the BAAQMD, the following measures shall be required of construction contracts and specifications for the project.

Demolition. The following controls shall be implemented during demolition:

- Watering shall be used to control dust generation during demolition of structures and break-up of pavement.
- Cover all trucks hauling demolition debris from the site.
- Use dust-proof chutes to load debris into trucks whenever feasible.

Construction. The following controls shall be implemented at all construction sites:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;

- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible.
- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

Modification of Mitigation Measure AQ-1 addresses new mitigation measures identified by BAAQMD to further reduce construction project impacts already identified in the Brandenburg EIR and does not address a new impact of the project that was not previously evaluated.

Mitigation Measure: The proposed project would be required to implement the following additional mitigation measures to MM AQ-1:

MM AQ-1a: Consistent with guidance from the BAAQMD, the following additional measures shall be required of construction contracts and specifications for the project:

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours.[12]

Implementation of these mitigation measures would reduce construction period air quality impacts to a less-than-significant level.

[12] Additional text for Mitigation Measure AQ-1 is underlined.

4.3.2.3 Local Community Risk and Hazard Impacts

Since completion of the Brandenburg EIR, the BAAQMD, through its *Air Quality CEQA Guidelines* document, has introduced new significance criteria related to community health risk and hazard impacts. The new criteria went into effect on May 1, 2011 as follows.

The threshold of significance for local community risk and hazard impacts applies to the siting of a new receptor. Local community risk and hazard impacts are associated with Toxic Air Contaminants (TACs) and $PM_{2.5}$ because emissions of these pollutants can have significant health impacts at the local level. If emissions of TACs or $PM_{2.5}$ at a receptor site exceed any of the thresholds listed below, the proposed project would result in a significant impact.

- Non-compliance with a qualified Community Risk Reduction Plan;
- An excess cancer risk level of more than 10 in one million, or a non-cancer (i.e., chronic or acute) hazard index greater than 1.0 would be a significant cumulatively considerable contribution.
- An incremental increase of greater than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$ from a single source would be a significant cumulatively considerable contribution.

A project would have a *cumulatively considerable* impact if the aggregate total of all past, present, and foreseeable future sources within a 1,000 foot radius from the fence line of a source, or from the location of a receptor, plus the contribution from the project, exceeds the following:

- Non-compliance with a qualified Community Risk Reduction Plan; or
- An excess cancer risk levels of more than 100 in one million or a chronic non-cancer hazard index (from all local sources) greater than 10.0; or
- 0.8 $\mu g/m^3$ annual average $PM_{2.5}$.

The City of San José is currently working with the BAAQMD on the development of a Community Risk Reduction Plan to address reducing exposures of residents to toxic air contaminants and $PM_{2.5}$ emissions from all sources. Therefore, the criterion related to compliance with that Plan does not apply at this time.

The City of San José has been identified as an impacted community under the BAAQMD's Community Air Risk Evaluation (CARE) program which was initiated in 2004 to evaluate and reduce health risk associated with exposures to outdoor TACs in the Bay Area. The BAAQMD has developed an inventory of TAC emissions and compiled demographic and health indicator data. According to the findings of the CARE Program, diesel PM, mostly from on and off-road mobile sources, accounts for over 80 percent of the inhalation cancer risk from TACs in the Bay Area.

To estimate the potential cancer risk and hazard index associated with the proposed project from vehicle engine exhaust (including diesel) and stationary sources in the project vicinity, a dispersion model was used to translate an emission rate from a source location (i.e., SR 87, surface streets, and stationary sources) to a concentration at a receptor location of interest (i.e., the proposed project site). This assessment was conducted using the EPA's dispersion model ISCST3and ARB's health risk model, HARP. In addition to examining the risks from diesel exhaust particulate, this assessment also includes an analysis of the exhaust from gasoline-fueled vehicles. The model provides a detailed estimate of concentrations considering site and source geometry, source strength, distance to receptor, building wake effects on plume distribution, and site specific meteorological data. Detailed assessment methodology, model data and a complete set of results are included in the Health Risk Assessment report prepared for the project and is included in Appendix F of this Addendum.

Results of the analysis indicate the maximum cancer risk for future residents of the project site would be 9.35 in 1 million due to traffic from State Route (SR 87) which is below the BAAQMD's significance criterion of 10 in 1 million. The cumulative health risk level would be 15.45 in 1 million which is also well below the threshold of 100 in 1 million. The acute and chronic hazard index levels are negligible, resulting in a levels that are also well below the criteria. Therefore, impacts associated with local community and health risk impacts would be less than significant.

4.3.3 Conclusion

With implementation of the above mitigation measures, the proposed project would not result in any new or more significant air quality impacts than those addressed in the certified Brandenburg EIR. **(No New Impact)**

4.4 BIOLOGICAL RESOURCES

4.4.1 Regulatory Framework

4.4.1.1 Special Status Species

Threatened and Endangered Species. State and federal "endangered species" legislation has provided the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as "threatened" or "endangered" under provisions of the state and federal Endangered Species Acts, candidate species for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society (CNPS) are collectively referred to as "species of special status."

Migratory Birds. State and federal laws also protect most bird species. The Federal Migratory Bird Treaty Act prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior.

4.4.1.2 Jurisdictional Waters

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank that, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), CDFG, and the California Regional Water Quality Control Board (RWQCB).

4.4.1.3 City of San José General Plan

The City of San José General Plan includes policies for the purpose of avoiding or mitigating biological resource impacts resulting from planned development within the City. Polices that address biological resource issue and are applicable to the proposed project include the following:

- *Urban Forest Policy 2*. Public and private development projects should incorporate all reasonable measures to preserve native ordinance-sized, and other significant trees. Adverse impacts on the health and longevity of native, ordinance sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement to conserve and renew the urban forest. In support of these policies the City should:
    - Continue to implement the Heritage Tree program and the Tree Removal Ordinance.
    - Consider the adoption of Tree Removal Mitigation Guidelines.
- *Urban Forest Policy 3*. The City encourages the preservation and maintenance of mature trees on public and private property. Prior to allowing the removal of any mature tree, all reasonable measures, to preserve the tree, should be pursued. When the preservation is not feasible, appropriate tree replacement should be required to conserve and renew the urban forest.
- *Urban Forest Policy 4*. In order to realize the goal of providing street trees along all streets, the City should:
    - Establish and maintain a master plan for the urban forest that identifies approved tree species, planting, stock, care, and maintenance standards, and the community and collective approach to effectively manage a thriving, sustainable Urban Forest.
    - Require the planting and maintenance of street trees as a condition of development.
    - Continue the program for management and conservation of street trees which catalogs street tree stock replacement and rejuvenation needs.
    - Establish and maintain a City inventory of all street trees.

  - Encourage that street trees and trees limited by impervious area be planted with structural soil to promote full growth and health.

- *Urban Forest Policy 5*. The City should encourage the selection and placement of trees appropriate for a particular urban site in consultation with a certified arborist. Tree selection and placement should consider species, mature size and form, function, canopy and root characteristics, soil conditions, water requirements, energy conservation and production values, potential stormwater quality and erosion control benefits, location of existing and proposed structures, nearby powerlines, and diversity and sustainability of the urban forest.
- *Urban Forest Policy 6*. Trees used for new plantings in urban areas should be selected primarily from species with low water requirements.
- *Urban Forest Policy 7*. Where appropriate, trees that benefit urban wildlife species by providing food or cover should be incorporated in urban plantings.

4.4.1.4 City of San José Tree Ordinance

The *City of San José Tree Removal Controls Ordinance* is intended to protect all trees having a trunk which measures 56 inches or more in circumference (18 inches in diameter) at the height of 24 inches above the natural grade of slope.[13] These trees are defined as "ordinance-size" trees and this ordinance protects both native and non-native tree species. A removal permit is required from the City of San José for the removal of "ordinance-size" trees.

The City also requires all trees proposed to be removed be replaced at the following ratios listed in Table 2. The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement.

Table 2: City of San José Tree Replacement Ratios

Diameter of Tree to be Removed	Type of Tree to be Removed [a]			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 to 18 inches	3:1	2:1	None	24-inch box
Less than 12 inches	1:1	1:1	None	15-gallon container

[a] x:x = tree replacement to tree loss ratio.

Trees greater than 18 inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees

Source: City of San José, 2011.

4.4.1.5 City of San José Heritage Trees

Under the City of San José Municipal Code, Section 13.28.330 and Section 13.32.090, specific trees are found, because of factors including, but not limited to, their history, girth, height, species or unique quality, to have a special significance to the community and are designated "Heritage Trees".

4.4.1.6 Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan

To date, there are no adopted habitat conservation plans that cover the project site. The City of San José and several partner agencies, including the County of Santa Clara, the Santa Clara Valley Water District (SCVWD), and the Santa Clara Valley Transportation Authority, are in the process of developing a multi-species Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) for the Santa Clara Valley. The HCP/NCCP has yet to be adopted and is currently non-operational. If this HCP were approved prior to site development, the project would be subject to the provisions addressed in this HCP.

[13] San José, City of. Municipal Code, Sections 13.32, Tree Removal Controls

4.4.2 Setting

The 0.73-acre site is located in an urban area within Downtown San José and consists of vacant parcels, devoid of any structures. Historically, the project site was developed for commercial and industrial uses. Mature trees are concentrated in the center of the site. As indicated in the Brandenburg EIR, no creeks or habitat for special status species are located on the project site. No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved, local, regional, or state HCP include the project area.

The Brandenburg EIR identified a total of seven trees located on the project site, none of which were of ordinance-size. Planted tree species on the project site include Tree of Heaven (*Ailanthus altissima*). No heritage trees were identified on the project site.

Developed lands provide minimal habitat for locally occurring wildlife species. Amphibian and reptiles would not be expected to utilize the project site on a regular basis as part of their home range or for movement due to the lack of suitable habitat. However, a number of bird and mammalian species commonly associated with urban environments could potentially occur on-site from time to time.

4.4.3 Environmental Checklist and Discussion of Impacts

Biological Resources						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒	☐ 1,3	
Have a substantial adverse effect on any aquatic, wetland, or riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒	☐ 1,3	
Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐ 1,3	
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?	☐	☐	☐	☒	☐ 1,3	

Biological Resources *Continued*						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐ 1,2,3	
Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	☐	☐	☐	☒	☐ 1,2	

4.4.3.1 Wildlife and Sensitive Habitat

The project site, which is a part of the Brandenburg Mixed-Use project site evaluated in the Brandenburg EIR, is located in a developed habitat. The Brandenburg EIR identified that generally, such areas are environments utilized by numerous wildlife species that are used to urbanized areas.

Trees and shrubs on and in the vicinity of the project site may be removed or otherwise disturbed to accommodate the new residential development. Existing ornamental trees and shrubs may provide shelter, foraging, and nesting habitat for a variety of wildlife species, including migrating birds. Buildings may also provide nesting habitat for several bird species that are protected by State and federal statutes.

However, the Brandenburg EIR identified no special status plants, or potentially suitably habitat for special-status plant species in the San José area were observed on the Brandenburg Mixed-Use project site. Although several special-status animals have been identified as historically occurring in the vicinity of the Brandenburg EIR project area, the Brandenburg EIR identified most special-status animal species occurring in the South Bay Area breed and forage in habitat types that are not present within or immediately adjacent to the Brandenburg EIR project site.[14] As a result, potential impacts to special-status plant and animal species would be less-than-significant.

4.4.3.2 Riparian Habitat

Refer to Section 4.4.2.1. As described in the Brandenburg EIR, the project site is not located in an area that supports riparian habitat or other sensitive natural communities.

4.4.3.3 Federally Protected Wetlands

Refer to Section 4.4.2.1. As described in the Brandenburg EIR, the project site is not located in an area that supports any wetlands, drainages, or water bodies as defined by Section 404 of the Clean Water Act. The project site is located in an urban area that has been historically developed.

4.4.3.4 Wildlife Movement Corridors

As stated in the Brandenburg EIR, the Brandenburg Mixed-Use project area consists of buildings and pavement and is a developed, landscaped habitat that supports wildlife species typically associated with urban areas. Because the project site is located in an urban environment, there are no major wildlife

[14] LSA Associates Inc., 2003. *Brandenburg Mixed Use Project/North San Pedro Housing Sites Final Environmental Impact Report* (State Clearinghouse#200.012046). August. p.141.

movement corridors that pass through the site. Therefore, the proposed project would not substantially interfere with the movement of established, native resident or migratory fish or wildlife species.

Additionally, most of the birds and other wildlife species at the site are characteristic of urban settings and would readily inhabit the surrounding area once construction is completed. Thus, the proposed project would not impede the use of native wildlife nursery sites.

4.4.3.5 Ordinance Size Trees

Refer to Section 4.4.1.4. Trees on and in the vicinity of the project site may be removed or otherwise disturbed to accommodate the new residential development. Trees on the project site were not identified as ordinance-size trees. The Brandenburg EIR recommended Mitigation Measure VEG-1 for the removal of existing mature trees. Implementation of this measure would ensure that the risks associated with vegetation impacts would be less than significant

Impact VEG-1: Construction of the proposed project would result in the removal of existing mature trees. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM VEG-1: For trees that cannot be incorporated into new landscaping, a City of San José Tree Removal Permit shall be obtained prior to removal of trees from the site. Loss of ordinance size trees will be mitigated by implementation of landscaping plans approved by the City of San José, in conformance with the City of San José landscaping guidelines and City of San José Planning Department specifications. The City of San José requires tree replacement for those trees greater than 18 inches in diameter at a ratio of 4:1 (trees planted to trees removed).

4.4.3.6 Conservation Plans

The proposed project would not conflict with the conservation strategies currently being developed (but not yet adopted) as part of the proposed Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan or other local, regional, or State plans that protect biological resources.

4.4.4 Conclusion

The proposed project, with implementation of the above standard measure, would not result in any new significant biological impacts than those addressed in the certified Brandenburg EIR. **(No New Significant Impacts)**

4.5 CULTURAL RESOURCES

The information below is based on a summary that was based on a technical background repot on Cultural Resources for the Brandenburg EIR.

4.5.1 Setting

4.5.1.1 City of San José General Plan Policies

The City's General Plan provides policies which reaffirm the City's commitment to preserve its cultural heritage. The Brandenburg EIR addressed Policies 1 through 10 in the Historic, Archaeological and Cultural Resources subsection of the General Plan that pertain to Cultural Resources.

4.5.1.2 Archaeological Resources

The Brandenburg EIR identified portions of the Brandenburg Mixed-Use project area have a moderate to high likelihood to contain prehistoric and historical archeological features and deposits. The project area's proximity to the Guadalupe River, and the historically-documented seasonal flooding that has occurred nearby, suggest that the project area has a moderate to high sensitivity for the presence of prehistoric archaeological deposits beneath flood-deposited soils. Numerous prehistoric archaeological sites are documented in similar environmental contexts relatively near the project area. A review of recorded prehistoric sites in Santa Clara Valley (as of 1982) indicates that nearly 43 percent were situated in a linear arrangement along water courses, such as the Guadalupe River.[15]

Historical archaeological deposits may also be present in the Brandenburg Mixed-Use project area due to the number of documented commercial, industrial, and residential buildings and structures that once occupied the project area. Such deposits may include privies, trash pits, or structural remains associated with businesses and homes, and in turn may contain important information about several distinct periods in San José's historical development.

4.5.1.3 Historical Resources

The Brandenburg EIR identified that a previously existing building on a portion of the project site (APN #259-23-016) did not appear to be eligible for listing on the National Register and the California Register. The project site is currently vacant and there are no historically significant structures located on-site.

Historical information of the project site revealed it was first developed as a railroad yard by the Southern Pacific Railroad Company in the 1890s, and portions of the site area were subsequently developed for additional commercial and industrial activities. The rail yard operations on the site diminished between the 1950s and the late 1980s, and the project site has been relatively vacant since the late 1980s. [16]

[15] LSA Associates, Inc. 2003, op. cit.

[16] Krazan and Associates, Inc., 2000, op. cit.

4.5.2 Environmental Checklist and Discussion of Impacts

Cultural Resources						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines §15064.5?	☐	☐	☐	☒	☐ 1,2,3	
Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?	☐	☐	☐	☒	☐ 1,2,3	
Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	☐ 1,2,3	
Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	☐ 1,2,3	

4.5.2.1 Historic Resources

The existing project site is not considered as a historical resource as defined by Section 15964.5 of the CEQA Guidelines and, as a result, would not cause a substantial adverse change in the significance of a known historical resource. The Brandenburg EIR identified "Pellier Park", located at 183 West St. James Street, approximately 0.3 mile southeast from the project site, as the closest property to meet the criteria for historical resources.

4.5.2.2 Prehistoric and Historical Archaeological Resources

Ground disturbing construction activities could directly affect potential archaeological resources in the project area by disturbing both surface and subsurface soils during foundation preparation and excavation, and the preparation and installation of associated improvements including utilities and sewers. The Brandenburg EIR identified a moderate to high likelihood that prehistoric and historic cultural resources exist within the Brandenburg Mixed-Use project area, which includes the proposed project site.

Cultural resources along watercourses such as the Guadalupe River may have been buried by alluvial deposits. As described in Section 4.5.1.2, the proposed project's proximity to the river and the historically-documented seasonal flooding that has occurred nearby, suggests that the project area has a moderate to high sensitivity for the presence of prehistoric archaeological deposits beneath flood-deposited soils.

The Brandenburg EIR also identified the Brandenburg Mixed-Use project area of high historical archaeological sensitivity, where several types of archeological features or deposits may occur within and near this area. Previous research has identified the probable locations of former buildings, structures, roads, and water conveyance features associated with the Spanish-era Pueblo. Historical archaeological deposits are also likely to be present in the project area due to the number of documented commercial, industrial, and residential buildings and structures that once occupied the Brandenburg Mixed-Use project area. Therefore, the potential to uncover sensitive historical archaeological resources during construction activities exists at the project site.

Due to the archaeological sensitivity of the area and to prevent potential impacts to unknown cultural resources as a result of construction activities, the Brandenburg EIR recommended that all ground-

disturbing activities on the project site be monitored by a qualified archaeologist (Mitigation Measure CUL-1a). Implementation of these measures would ensure that construction activities at the project site would result in a less-than-significant impact to historical and archaeological resources.

Impact CUL-1: Development of residential and commercial uses of the project site could adversely impact cultural resources. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM CUL-1a: A qualified archaeologist, meeting the Professional Qualifications Standards of the *Secretary of the Interior's Standards and Guidelines,*[17] shall monitor all ground disturbing activity within the project area. This monitoring shall continue until, in the archaeologist's judgment, a depth has been reached at which cultural resources are not likely to be encountered by project-related activities. If deposits of archaeological materials are encountered during project activities, all work within 50 feet of the discovery shall be redirected until the monitor has evaluated the finds and made recommendations regarding their disposition. If such cultural resources are found to be significant, in accordance with CEQA and the California Register, they should be avoided by project activities. If avoidance is not feasible, adverse effects to such resources shall be mitigated.

Prehistoric materials can include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, or quartzite toolmaking debris; culturally darkened soil (i.e., midden soil often containing heat affected rock, ash and charcoal, shellfish remains, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Historical materials can include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, and other refuse.

Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.

Upon completion of archaeological monitoring, a report shall be prepared documenting the methods, results, and recommendations of the monitoring archaeologist.

4.5.2.3 Paleontological Resources

The Brandenburg EIR did not identify the Brandenburg Mixed-Use project area as sensitive for paleontological resources. Therefore, implementation of the proposed project would not result in impacts related to paleontological resources.

4.5.2.4 Disturbance of Human Remains

The potential to uncover human remains exists at locations throughout the Bay Area. At the Brandenburg Mixed-Use project area, the probability of ground-disturbing activities uncovering such remains is increased because the area is sensitive for the presence of prehistoric archaeological sites. Implementation

[17] National Park Service, 1983. "Secretary of the Interior's Standards and Guidelines-Professional Qualifications Standards." Website: http://www.cr.nps.gov/local-law/arch_stnds_9.html.

of Mitigation Measure CUL-1d, recommended in the Brandenburg EIR, would be required to ensure that potential impacts to human remains would be less than significant at the project site.

Impact CUL-1: Development of residential and commercial uses of the project site could adversely impact cultural resources. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM CUL-1d: If human remains are encountered during construction, work within 50 feet of the discovery should be redirected and the County Coroner notified immediately. At the same time, an archaeologist should be contacted to evaluate the situation. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American Most Likely Descendent to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

If human remains are encountered during construction, the archaeologist contracted to evaluate the situation should prepare a report documenting the methods and findings of the investigation. This report should be submitted to the NWIC.

4.5.3 Conclusion

With the implementation of the mitigation measures CUL-1a and CUL-1d, the proposed project would not result in any new or more significant cultural resources impacts than those addressed in the certified Brandenburg EIR. **(No New Significant Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based in part on a Preliminary Geotechnical Investigation prepared by TRC, Inc. in June 2011.This report is included as Appendix A of this Initial Study/Addendum.

4.6.1 Setting

4.6.1.1 City of San José General Plan Policies

The City's General Plan provides policies which specifically address soils, geology and hazards. The Brandenburg EIR addressed Soils and Geologic Conditions Policies 1, 6, 8, and 9; Earthquake Policies 1 and 4; and Hazards Policy 1. Additional policies that were not included in the Brandenburg EIR that are applicable to the proposed project include the following:

- *Soils and Geologic Conditions Policy 2*. The City should not locate public improvements and utilities in areas with identified soils and/or geologic hazards to avoid any extraordinary maintenance and operating expenses. When the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures should be implemented.
- *Earthquake Policy 3.*The City should only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.
- *Earthquake Policy 5*.The City should continue to require geotechnical studies for development proposals; such studies should determine the actual extent of seismic hazards, optimum location for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location.

4.6.1.2 Geological Features

As identified in the Brandenburg EIR, the project site is located at the western coastal margin of the Coast Range Geomorphic Province of Northern California. This region is dominated by northwest-southeast trending ranges of low mountains and intervening valleys. The project area is located within a relatively flat urbanized area.

As indicated in the Brandenburg EIR, the Brandenburg Mixed-Use project area is underlain by Quaternary-aged sand, gravel, silt and mud. A preliminary geotechnical investigation conducted at a portion of the Mixed-Use project area in 2000 included the completion of six cone penetration tests (CPT) to a maximum depth of 80 feet below the ground surface. The CPT results confirmed the presence of interbedded layers of unconsolidated clay, silt, sand to the maximum depth explored. The upper 7 to 15 feet of unconsolidated sediments were identified as non-uniformly compacted heterogeneous. The fill materials would be expected to experience settlements of up to 2 inches under a new building load. The project site is relatively level and is approximately 80 feet above mean sea level, and is vacant, undeveloped and unpaved.[18]

4.6.1.3 Soil Conditions

Undocumented Fill. The preliminary geotechnical investigation prepared by TRC Engineers identified soils on the project site to include interbedded layers of clay and silt, with a few layers consisting of sand. Two boring test sites encountered fill consisting of medium to dense clayley gravels over one foot of asphalt in one test site, and fill consisting of medium dense clayey gravels in the other test site.

Native Soils. Below the existing surface fills, medium stiff to very stiff lean clay to silty clay, soft to stiff silt, and medium stiff fat clay to depths of approximately 20 feet was encountered. Loose to medium dense silty sand and medium dense to dense poorly graded sand was encountered in depths of approximately 30

[18] Krazen and Associates, Inc., 2000, op. cit.

feet. Soft to very stiff fat clay was encountered in depths of approximately 40 feet, and thicker layers of sands were encountered between 40 to 50 feet. Below 50 feet, finer grained clays and silts were generally encountered to 75 feet, the maximum depth explored.

Expansive soils shrink and swell as a result of moisture changes. These changes can cause heaving and cracking of slabs-on-grade, pavements and structures found on shallow foundations. Samples of the native clay soil on the project site indicated low plasticity and expansion potential of the soil below the fill.

Groundwater. Studies conducted at the project site encountered free groundwater at depths of about 17 to 20 ½ feet. Fluctuations in groundwater are common due to variations in rainfall, underground drainage patterns, and other factors. Groundwater on the project site is, therefore, estimated to be encountered at 10 to 14 feet below the existing grade.

4.6.1.4 Seismicity and Seismic Hazards

The project area is located within the San Andreas Fault Zone (SAFZ), an area of active seismicity where numerous moderate to strong historic earthquakes have been generated in northern California. The level of active seismicity results in the classification of the area of seismic risk Zone 4 (the highest risk category) in the California Building Code. The closest active fault to the project area is the Hayward fault zone, located approximately 5.6 miles northeast. Other potentially damaging active faults are located within 10 miles of the project area, including the Monte Vista-Shannon and Calaveras faults.

The project site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone, within a Santa Clara County Earthquake Zone for fault rupture, nor a City of San José Fault Hazard Zone. Therefore, fault rapture through the site is not anticipated.[19]

Liquefaction. Liquefaction is the temporary transformation of loose, saturated granular sediments from a solid state to a liquefied state as a result of seismic ground shaking. In the process, the soil undergoes transient loss of strength, which commonly causes ground displacement or ground failure to occur. Since saturated soils are a necessary condition for liquefaction, soil layers in areas where the groundwater table is near the surface have higher liquefaction potential than those in which the water table is deep. The depth to groundwater at the project site is approximately 21 feet.[20]

The project site is located within a State of California Seismic Hazard Zone for liquefaction hazard and a Santa Clara County Geologic Hazard Zone. As discussed above, the subsurface of the project site is predominantly clay soils with layers of sands and silts. Based on analysis of the project site, several sand layers below the design groundwater depth are susceptible to liquefaction.

The project site is within a "liquefaction zone" mapped by the California Geological Survey in conformance with the Seismic Hazards Mapping Act.[21] This zone is characterized as an area "where historic occurrence of liquefaction or local geological, geotechnical and groundwater conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required."

[19] TRC Engineers, Inc., 2011. Geotechnical Investigation, North San Pedro Apartments, San Jose, California. June 22.

[20] Ibid and Carroll Engineering, 2010. Storm Water Control Plan, Upper Levels. October 28.

[21] California Geological Survey, 2002. Seismic Hazard Zones: San José West Quadrangle, Official Map. Website: gmw.consrv.ca.gov/shmp/download/pdf/ozn_sjosw.pdf (accessed May 31, 2011). February 7.

Loss of Topsoil. Near-surface soils vary in composition and strong earthquake shaking can cause non-uniform densification of loose to medium dense cohesionless soil strata, resulting in the movement of near-surface soils. Based on the preliminary analysis, one loose sand layer above the design groundwater depth may have the potential to densify during a strong earthquake.

Lateral Spreading. Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or "free" face such as an open body of water, channel, or excavation. In soils, this movement is generally due to failure along a weak plane, and may often be associated with liquefaction.

Based on the preliminary analysis, there are no creeks or open bodies of water within an appropriate distance from the project site for lateral spreading to occur. Therefore, the probability of lateral spreading occurring at the project site during a seismic event is low.

Landsliding. The project site is located in a relatively flat area and is not located within an area zoned by the California Geological Survey as having potential for seismically-induced landslide hazards.

4.6.2 Environmental Checklist and Discussion of Impacts

Geology and Soils						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☒	☐ 1,18	
Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	☐ 1,18	
Strong seismic ground shaking?	☐	☐	☐	☒	☐ 1,18	
Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐ 1,18	
Landslides?	☐	☐	☐	☒	☐ 1,	18
Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐ 1,	18
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?	☐	☐	☐	☒	☐ 1,	18
Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒	☐ 1,	18
Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☐	☒	1

4.6.2.1 Seismicity and Seismic Hazards

All structures in the Bay Area and their occupants are at risk of damage or injury from ground shaking in the event of an earthquake. The amount of ground shaking would depend on the magnitude of the earthquake, the distance from the epicenter, and the type of earth materials in between. Very strong to violent ground shaking will occur at the project site during expected earthquakes on the Hayward and other regional faults. This level of seismic shaking could cause extensive non-structural damage in buildings in the project vicinity. In addition, limited structural damage may occur. The geologic conditions of the project site, including seismic conditions, surface ruptures, and landslides have been evaluated in the Brandenburg EIR.

The proposed structures on the site would be designed and constructed in conformance with the Uniform Building Code Guidelines for Seismic Zone 4 to avoid and minimize potential damage from seismic shaking on the site. As part of a standard condition to be included in the development permit of the proposed project, a soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published b y the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report).

The proposed project would not result in any new or more significant seismic hazards impacts than were described in the certified Brandenburg EIR. The Brandenburg EIR recommended the implementation of Mitigation Measure GEO-1. Implementation of this measure would ensure that the risks associated with seismic ground shaking and ground failure would be less than significant.

Impact GEO-1: Occupants of the project, dwelling units, and commercial space would be subject to seismic hazards. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project

MM GEO-1: Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards such as liquefaction and subsidence. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the following requirement for the geotechnical and soils report shall be met:

- Analysis presented in the geotechnical report shall conform with the California Division of Mines and Geology recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California."[22]

All mitigation measures, design criteria, and specifications set forth in the geotechnical and soils report shall be followed.

It is acknowledged that seismic hazards cannot be completely eliminated even with site-specific geotechnical investigation and advanced building practices (as

[22] California Division of Mines and Geology (CDMG), 1997. *Guidelines for Evaluating Seismic Hazards in California*, CDMG Special Publication 117, 74 p.

provided in the mitigation measure above). However, exposure to seismic hazards is a generally accepted part of living in the San Francisco Bay Area and therefore the mitigation measures described above reduces the potential hazards associated with seismic activity to a less-than-significant level.

4.6.2.2 Unstable and Expansive Soils

Soils underlying portions of the Brandenburg Mixed-Use project site have moderate to high shrink/swell potential.[23] This condition occurs when expansive soils undergo alternate cycles of wetting (swelling) and drying (shrinking). During these cycles, the volume of the soil changes significantly. In addition, non-uniformly compacted imported fill has been places at the site that could experience settlements up to 2 inches under a building load. Structural damage, warping, and cracking of roads and sidewalks, and rupture of utility links may occur if the potential expansive soils and the nature of the imported fill were not considered during design and construction of improvements.

Impact GEO-2: Damage to structures or property related shrink-swell potential and/or settlements of the project soils could occur. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM GEO-2: In locations underlain by expansive soils and/or non-engineered fill, the designers of proposed building foundations and improvements (including sidewalk, roads, and utilities) shall consider these conditions. The design-level geotechnical investigation (required by Mitigation Measure GEO-1) shall include measures to ensure that potential damage related to expansive soils and non-uniformly compacted full is minimized. Options to address these conditions may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted full, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.

4.6.2.3 Septic Tanks

Project construction and operation would not involve the use of septic tanks or alternative wastewater disposal system. Therefore, no impact would result.

4.6.3 Conclusion

The proposed project, with the implementation of the above mitigation measures and standard measures, would not result in any new or more significant geological related impacts than those addressed in the Brandenburg EIR. **(No New Significant Impact)**

[23] U.S. Department of Agriculture, 1968. Soils of Santa Clara County.

4.7 GREENHOUSE GAS EMISSIONS

The following discussion is based in part on a Global Climate Change Analysis prepared by LSA Associates, Inc., in June 2011. A copy of this report is included as Appendix B of this Addendum/Initial Study.

4.7.1 Setting

4.7.1.1 Background Information

Global climate change is the observed increase in the average temperature of the Earth's atmosphere and oceans along with other significant changes in climate (such as precipitation or wind) that last for an extended period of time. The term "global climate change" is often used interchangeably with the term "global warming," but "global climate change" is preferred to "global warming" because it helps convey that there are other changes in addition to rising temperatures.

Climate change may result from natural factors, such as changes in the sun's intensity; natural processes within the climate system, such as changes in ocean circulation; or human activities, such as the burning of fossil fuels, land clearing, or agriculture. The primary observed effect of global climate change has been a rise in the average global tropospheric[24] temperature of 0.36°F per decade, determined from meteorological measurements worldwide between 1990 and 2005. Changes to the global climate system, ecosystems, and the environment of California could include higher sea levels, drier or wetter weather, changes in ocean salinity, changes in wind patterns or more energetic aspects of extreme weather, including droughts, heavy precipitation, heat waves, extreme cold and increased intensity of tropical cyclones. Specific effects in California might include a decline in the Sierra Nevada snowpack, erosion of California's coastline, and seawater intrusion in the Sacramento-San Joaquin River Delta.

Greenhouse Gases. Greenhouse Gasses (GHGs) are present in the atmosphere naturally, are released by natural sources, or are formed from secondary reactions taking place in the atmosphere. However, over the last 200 years, human activities have caused substantial quantities of GHGs to be released into the atmosphere. These extra emissions are increasing GHG concentrations in the atmosphere, and enhancing the natural greenhouse effect, which is believed to be causing global climate change. The gases that are widely seen as the principal contributors to human-induced global climate change are:[25]

- Carbon dioxide (CO_2)
- Methane (CH_4)
- Nitrous oxide (N_2O)
- Hydrofluorocarbons (HFCs)
- Perfluorocarbons (PFCs)
- Sulfur Hexafluoride (SF_6)

While GHGs produced by human activities include naturally-occurring GHGs such as CO_2, methane, and N_2O, some gases, like HFCs, PFCs, and SF_6 are completely new to the atmosphere. Certain other gases, such as water vapor, are short-lived in the atmosphere as compared to these GHGs that remain in the atmosphere for significant periods of time, contributing to climate change in the long term. Water vapor is

[24] The troposphere is the zone of the atmosphere characterized by water vapor, weather, winds, and decreasing temperature with increasing altitude.

[25] The greenhouse gases listed are consistent with the definition in Assembly Bill (AB) 32 (Government Code 38505) and the *CEQA Guidelines* section 15364.5, as discussed later in this section.

generally excluded from the list of GHGs because it is short-lived in the atmosphere and its atmospheric concentrations are largely determined by natural processes, such as oceanic evaporation. For the purposes of this report, the term "GHGs" will refer collectively to the six gases identified in the bulleted list provided above.

On December 30, 2009, the California Natural Resources Agency adopted CEQA Guidelines Amendments related to Climate Change. These amendments became effective on March 18, 2010 and state that Lead Agencies retain discretion to determine the significance of impacts from greenhouse gas emissions based upon individual circumstances and may be described, calculated or estimated using a model and/or qualitative analysis or performance based standards to assess impacts.

BAAQMD CEQA Guidelines. The BAAQMD adopted revised *CEQA Guidelines* in May, 2011. The BAAQMD *CEQA Guidelines* include thresholds of significance for GHG emissions. The BAAQMD does not have a quantitative threshold of significance for construction-related GHG emissions. However, BAAQMD recommends that the Lead Agency quantify and disclose GHG emissions that would occur during construction, and make a determination on the significance of these construction generated GHG emission impacts in relation to meeting AB 32 GHG reduction goals. Lead Agencies are encouraged to incorporate best management practices, such as recycling of at least 50 percent of construction waste or demolition materials, to reduce GHG emissions during construction.

For land use development projects (i.e., residential, commercial, industrial, and public land uses and facilities), the BAAQMD thresholds of significance for operational GHG emissions are: (1) compliance with a qualified climate action plan or qualified general plan; (2) annual GHG emissions of less than 1,100 metric tons of CO_2eq per year; or (3) annual GHG emissions of less than 4.6 metric tons per service population (residents plus employees). Achievement of any one of these standards defines a less-than-significant project impact.

4.7.1.2 City of San José General Plan Policies

Various policies in the City's General Plan have been adopted that avoid or mitigate climate change impacts resulting from planned development within the City. The City of San José has the following goals and policies related to the proposed project that would reduce GHG emissions and address global climate change:

- *Air Quality Goal*. Maintain acceptable levels of air quality for the residents of San José and minimize the air pollution produced by new development.
- *Air Quality Policy 1*. The City should take into consideration the cumulative air quality impacts from proposed developments and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region's Clean Air Plan and State law.
- *Air Quality Policy 2*. Expansion and improvement of public transportation services and facilities should be promoted, where appropriate, to both encourage energy conservation and reduce air pollution.
- *Air Quality Policy 3*. The City should urge effective regulation of those sources of air pollution, both inside and outside of San José, which affect air quality. In particular, the City should support Federal and State regulations to improve automobile emission controls.
- *Air Quality Policy 4*. The City should foster educational programs about air pollution problems and their solutions.
- *Air Quality Policy 5*. In order to reduce vehicle miles traveled and traffic congestion, new development within 1,000 feet of an existing or planned transit station should be designed to encourage the usage of public transit and minimize the dependence on the automobile through the application of site design guidelines.

- *Energy Goal*. Consistent with Sustainable City Strategy Goals, the City should foster development which, by its location and design, reduces the use of non-renewable energy resources in transportation, buildings and urban services (utilities) and expands the use of renewable energy resources.
- *Energy Policy 1*. The City should promote development in areas served by public transit and other existing services. Higher residential densities should be encouraged to locate in areas served by primary public transit routes and close to major employment centers.
- *Energy Policy 2*. Decisions on land use should consider the proximity of industrial and commercial uses to major residential areas in order to reduce the energy used for commuting.
- *Energy Policy 3*. Public facilities should be encouraged to locate in areas easily served by public transportation.
- *Energy Policy 4*. The energy-efficiency of proposed new development should be considered when land use and development review decisions are made. The City's design techniques include provisions for solar access, for siting structures to maximize natural heating and cooling, and for landscaping to aid passive cooling protection from prevailing winds and maximum year-round solar access.
- *Energy Policy 5.* The City should encourage owners and residents of existing developments to implement programs to use energy more efficiently in buildings and in their transportation choices, to reduce dependency on automobiles, and to explore alternative energy sources.
- *Energy Policy 9*. The City should encourage the development of renewable energy sources and alternative fuels and cooperate with other public and quasi-public agencies in furthering this policy.

In addition, the *San José Green Vision*[26] adopted in October 2007, is a 15-year plan to transform the City into a world center of Clean Technology, promote cutting-edge sustainable practices, and demonstrate that the goals of economic growth, environmental stewardship and fiscal responsibility are inextricably linked. The 10 goals of the *Green Vision* are as follows:

1. Create 25,000 Clean Tech jobs as the World Center of Clean Tech Innovation;
2. Reduce per capita energy use by 50 percent;
3. Receive 100 percent of our electrical power from clean renewable sources;
4. Build or retrofit 50 million square feet of green buildings;
5. Divert 100 percent of the waste from our landfill and convert waste to energy;
6. Recycle or beneficially reuse 100 percent of our wastewater (100 million gallons per day);
7. Adopt a General Plan with measurable standards for sustainable development;
8. Ensure that 100 percent of public fleet vehicles run on alternative fuels;
9. Plant 100,000 new trees and replace 100 percent of our streetlights with smart, zero-emission lighting; and
10. Create 100 miles of interconnected trails.

The City of San José has also adopted a Green Building Policy, which fosters long-term social, economic, and environmental sustainability in public building and development. The Green Building Policy goals center on five main categories: sustainable sites, energy and atmosphere, water efficiency, materials and resources, and indoor environmental quality.

In October 2008, the City Council 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. The proposed project would be

[26] San José, City of, 2007. Communications Office. *San José Green Vision*. October.

subject to this policy. A residential project of greater than 10 units, such as the proposed project, would be required to achieve a minimum of a LEED Certified rating or a Build it Green (BIG) rating of 50 points. Commercial development greater than 25,000 feet is required to achieve LEED Silver certification.

The City of San José is concurrently preparing a Greenhouse Gas Reduction Strategy with the General Plan Update that will identify current and projected greenhouse gas emissions and measures for local government and the community to implement to reduce and avoid greenhouse gas emissions. The Greenhouse Gas Reduction Strategy is anticipated to be approved by the City Council in March 2012.

4.7.1.3 Existing Conditions

The project site has been vacant since the late 1980s.[27] As shown in the two site photos in Figure 5, the site includes several trees and weedy plants that are subject to mowing prior to the dry months. Surrounding land uses include commercial and residential uses, and a number of vacant parcels.

4.7.2 Environmental Checklist and Discussion of Impacts

GREENHOUSE GAS EMISSIONS						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Would the project: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	☐ 1,6,7	
Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	☐ 1,6,7	

4.7.2.1 Greenhouse Gas Emission Impacts

Individual projects incrementally contribute toward the potential for global climate change on a cumulative basis in concert with all other past, present, and probable future projects. While individual projects are unlikely to measurably affect global climate change, each of these projects incrementally contribute toward the potential for global climate change on a cumulative basis, in concert with all other past, present, and probable future projects.

GHG emissions associated with the project would occur over the short term from construction activities, consisting primarily of emissions from equipment exhaust. There would also be long-term regional emissions associated with the project through vehicle trips, energy consumption, and water consumption. Recognizing that the field of global climate change analysis is rapidly evolving, the approaches advocated most recently indicate that lead agencies should calculate, or estimate, emissions from vehicular traffic, energy consumption, water conveyance and treatment, waste generation, construction activities, and any other significant source of emissions within the project area.

[27] Krazan and Associates, Inc., 2000, op. cit.

Greenhouse gas emissions associated with the project were calculated using the URBEMIS 2007 model and the BAAQMD Greenhouse Gas Model (BGM) following guidance from the BAAQMD.

Construction Emissions. The combustion of fossil-based fuels creates GHGs such as CO_2, CH_4, and N_2O. Furthermore, CH_4 is emitted during the fueling of heavy equipment. Exhaust emissions from on-site construction activities would vary daily as construction activity levels change. BAAQMD does not have an adopted Threshold of Significance for construction-related GHG emissions. However, the District encourages Lead Agencies to quantify and disclose GHG emissions that would occur during construction. Construction of the proposed project is anticipated to start in May of 2013 for a duration of 21 months.

Construction would produce combustion emissions from various sources. During site preparation and construction of the project, GHGs would be emitted through the operation of construction equipment and from worker and builder supply vendor vehicles, each of which typically uses fossil-based fuels to operate. Using the URBEMIS 2007 model, it is estimated that the total project construction emissions would be approximately 219 metric tons of CO_2. Model output sheets are included in the attached technical report.

Architectural coatings used in construction of the proposed project may contain volatile organic compounds (VOCs) that are similar to reactive organic gases (ROG) and are part of ozone precursors. However, there are no significant emissions of GHGs from architectural coatings.

Operational Emissions. Long-term operation of the proposed project would generate GHG emissions from area and mobile sources, and indirect emissions from sources associated with energy consumption, and water use. The methodology and/or qualitative description of the sources of GHG emissions related to transportation, electricity, water use, and solid waste disposal are described below. GHG emissions were estimated using the BAAQMD GHG Model (BGM) which incorporates the model inputs used in the air quality analysis from URBEMIS 2007.

Transportation. Transportation associated with the project would result in GHG emissions from the combustion of fossil fuels in daily automobile and truck trips. Transportation is the largest source of GHG emissions in California and represents approximately 38 percent of annual CO_2 emissions generated in the State. For land use development projects, vehicle miles traveled (VMT) and vehicle trips are the most direct indicators of GHG emissions associated with the project. The analysis accounts for a 15 percent reduction in trip generation to account for the project's transit oriented development (TOD) status. It also applies a 4 percent reduction in standard trips which is typical of affordable housing projects.

Electricity and Natural Gas. Buildings represent 39 percent of United States primary energy use and 70 percent of electricity consumption.[28] Electricity use can result in GHG production if the electricity is generated by combusting fossil fuel. The project is anticipated to increase the use of electricity and natural gas.

Water and Wastewater. Energy use and related GHG emissions are based on water supply and conveyance, water treatment, water distribution, and wastewater treatment. Each element of the water use cycle has unique energy intensities (kilowatt hours [kWh]/million gallons). Recognizing that the actual energy intensity in each component of the water use cycle will vary by utility, the California Energy Commission (CEC) assumes that approximately 5,411 kWh per million gallons are consumed for water that is supplied, treated, consumed, treated again, and disposed of in Northern California. Water usage and wastewater generation were estimated using the BGM.

[28] U.S. Department of Energy, 2003. *Buildings Energy Data Book.*

Solid Waste Disposal. Solid waste generated by the project could contribute to GHG emissions in a variety of ways. Landfilling and other methods of disposal use energy for transporting and managing the waste and they produce additional GHGs to varying degrees. Landfilling, the most common waste management practice, results in the release of CH_4 from the anaerobic decomposition of organic materials. CH_4 is 25 times more potent a GHG than CO_2. However, landfill CH_4 can also be a source of energy. In addition, many materials in landfills do not decompose fully, and the carbon that remains is sequestered in the landfill and not released into the atmosphere. Solid waste disposal was estimated using the BGM.

Table 3 shows the calculated GHG emissions for the existing uses and the proposed project. Motor vehicle emissions are the largest source of project-related GHG emissions at 664 metric tons per year representing approximately 62 percent of the total. Energy use of electricity and natural gas is the next largest category at a combined 27 percent of project CO_2eq annual emissions with approximately 153 and 137 metric tons of CO_2eq emissions, respectively. Solid waste accounts for approximately 9 percent of the project's GHG emissions with 102 metric tons of CO_2eq emissions per year. Other area sources, including landscape equipment, are the remaining source of GHG emissions and comprise approximately 1 percent of the total emissions for the proposed project. Additional calculation details are provided in Appendix B.

Table 3: Greenhouse Gas Emissions

	Emissions (Metric Tons Per Year)				
Emission Source	**CO_2**	**CH_4**	**N_2O**	**CO_2eq**	**Percent of Total**
Vehicles --		--	--	663.94	61.95
Electricity	152.81	0.00 0.00		153.05	14.28
Natural Gas Combustion	136.84 0.01		0.00	137.19	12.80
Water & Wastewater	15.58 0.00		0.00	15.60	1.46
Solid Waste	0.70	4.81	--	101.79	9.50
Total Annual Emissions	306.16 4.82		0.00	1,071.80	**100.0**

Note: Column totals may vary slightly due to independent rounding of input data.

-- Estimates not available for this pollutant and/or category.

Source: LSA Associates, Inc., June 2011.

The proposed project would generate up to 1,072 tons of CO_2eq per year of emissions, as shown in Table 2. Annual emissions of operational-related GHGs for the proposed project do not exceed the significance threshold of 1,100 metric tons of CO_2eq per year; therefore, the project would not generate significant greenhouse gas emissions. As a result, the impact of the proposed project would be less than significant.

Project Consistency With Plans. The California Environmental Protection Agency Climate Action Team (CAT) and the ARB have developed several reports to achieve the Governor's GHG targets that rely on voluntary actions of California businesses, local government and community groups, and State incentive and regulatory programs. These include the CAT's 2006 "*Report to Governor Schwarzenegger and the Legislature*," the ARB's 2007 "*Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California,*" and the ARB's "*Climate Change Scoping Plan: a Framework for Change."* The reports identify strategies to reduce California's emissions to the levels proposed in Executive Order S-3-05 and AB 32.

The adopted Scoping Plan includes proposed GHG reductions from direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as cap-and-trade systems.

In addition to reducing GHG emissions to 1990 levels by 2020, AB 32 directed the ARB to identify a list of "discrete early action GHG reduction measures" that can be adopted and made enforceable by January 1, 2010. In June 2007, the ARB approved a list of 37 early action measures, including three discrete early action measures (Low Carbon Fuel Standard, Restrictions on High Global Warming Potential Refrigerants, and Landfill Methane Capture). Discrete early action measures are measures that are required to be adopted as regulations and made effective no later than January 1, 2010, the date established by Health and Safety Code (HSC) Section 38560.5. The ARB adopted additional early action measures in October 2007 that tripled the number of discrete early action measures.

The ARB's focus in identifying the 44 early action items was to recommend measures that the ARB staff concluded were "expected to yield significant GHG emission reductions, are likely to be cost-effective and technologically feasible." The combination of early action measures is estimated to reduce State-wide GHG emissions by nearly 16 MMT. Accordingly, the 44 early action items focus on industrial production processes, agriculture, and transportation sectors. Early action items associated with industrial production and agriculture do not apply to the proposed project. The transportation sector early action items such as truck efficiency, low carbon fuel standard, proper tire inflation, truck stop electrification and strengthening light duty vehicle standards are not specifically applicable to the proposed project. State measures include emission reductions assumed as part of the Scoping Plan, including light-duty vehicle GHG standards ("Pavley standards"), low carbon fuel standard, and energy efficiency measures.

The proposed project would incorporate green building design features such as a vegetated rooftop "living" area, a rain garden, passive solar lighting, recycled building materials, and energy efficient windows. The project is a LEED for Homes Mid-Rise Pilot registered development and the project applicant is pursuing LEED Platinum certification from the United States Green Building Council, and therefore would be consistent with the San José Green Vision plan.

The proposed project is designed as a transit-oriented development (TOD) and is located within a quarter-mile of bus and light rail services, a half a mile of a commuter rail line and a quarter-mile of an employment center in a central business district. All residents would also receive a free, annual Santa Clara Valley Transportation Authority (VTA) Eco Pass for use on all bus and light rail services throughout Santa Clara County. The proposed project would also include 34 secure bicycle parking spaces, 16 of which would be located in the parking garage and 18 of which would be on the podium level.

The proposed project would not conflict with the State goal of reducing GHG emissions and would not conflict with the AB 32 Scoping Plan or the early action measures. The project would be subject to all applicable permit and planning requirements in place or adopted by the City of San José. Therefore, the proposed project would have a less than significant impact with regard to global climate change.

4.7.2.2 Impacts from Climate Change

Local temperatures could increase in time as a result of global climate change, with or without development as envisioned by the project. This increase in temperature could lead to other climate effects including, but not limited to, increased flooding due to increased precipitation and runoff, and a reduction in the Sierra snowpack. At present, the extent of climate change impacts is uncertain, and more extensive monitoring of runoff and snowpack is necessary for greater understanding of changes in hydrologic patterns. Studies indicate that increased temperatures could result in a greater portion of peak streamflows occurring earlier in the spring with decreases in late spring and early summer.[29] These changes could have implications for water supply, flood management, and ecosystem health.

[29] U.S. Global Change Research Program, 2001. *Climate Change Impacts on the United States: The Potential Consequences of Climate Variability and Change*.

Rising sea level is one of the major areas of concern related to global climate change. Two of the primary causes for a sea level rise are the thermal expansion of ocean waters (water expanding as it heats up) and the addition of water to ocean basins by the melting of land-based ice. From 1961 to 2003, global average sea level rose at an average rate of 0.07 inches per year, and at an accelerated average rate of about 0.12 inches per year during the last decade of this period (1993 to 2003).[30] Over the past 100 years, sea levels along California's coasts and estuaries have risen about seven inches.[31]

Sea levels could rise an additional 22 to 35 inches by the end of the century as global climate change continues.[32] Although these projections are on a global scale, the rate of sea level rise along California's coast is relatively consistent with the worldwide average rate observed over the past century. Therefore, it is reasonable to assume that changes in worldwide sea level rise will also be experienced along California's coast.[33]

Sea level rise of this magnitude would increasingly threaten California's coastal regions with more intense coastal storms, accelerated coastal erosion, threats to vital levees, and disruption of inland water systems, wetlands and natural habitats. Rising sea levels and more intense storm surges could increase the risk for coastal flooding. The San Francisco Bay Conservation and Development Commission (BCDC) employed geographic information system software to identify the shoreline areas likely to be most impacted by a one meter rise in sea level.[34] The map of the South Bay shows that the proposed project would not be in a location that would be affected by a one meter rise in sea level.[35]

Global climate change is anticipated to result in not only changes to average temperature, but also to more extreme heat events and increased ozone pollution.[36] These extreme heat events increase the risk of death from dehydration, heart attack, stroke, and respiratory distress, especially with people who are ill, children, the elderly, and the poor, who may lack access to air conditioning and medical assistance. According to the California Climate Change Center, more research is needed to understand the effects of higher temperatures and how adapting to these temperatures can minimize health effects.[37] The proposed project would provide housing for residents of San José and, like other residents of the City, these residents could be subject to the effects of higher temperatures and air pollution if warming temperatures occur within the region.

4.7.3 Conclusion

The proposed project would not result in a significant source of greenhouse gas emissions nor be significantly impacted by the effects of climate change. **(New Less Than Significant Impact)**

[30] California, State of, 2008. California Energy Commission's Public Interest Energy Research Program. *The Future is Now: An Update on Climate Change Science, Impacts, and Response Options for California*. September.

[31] Ibid.

[32] California Climate Change Center, 2006. *Our Changing Climate. Assessing the Risks to California.* July.

[33] California, State of. Department of Water Resources, 2006. *Progress on Incorporating Climate Change into Management of California's Water Resources*. July.

[34] California, State of. San Francisco Bay Conservation and Development Commission, 2009. Climate Change website. http://www.bcdc.ca.gov/planning/climate_change/climate_change.shtml.

[35] Ibid.

[36] California Climate Change Center, 2006, op. cit.

[37] California Climate Change Center, 2006, op. cit.

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on an environmental assessment report prepared by *Krazan and Associates, Inc.* in 2000, and the Brandenburg EIR. A copy of the Krazan report is included in Appendix C of this Addendum/Initial Study.

4.8.1 Setting

4.8.1.1 City of San José General Plan Policies

Various policies in the City's General Plan have been adopted that avoid or mitigate hazards and hazardous materials impacts resulting from planned development within the City. The City of San José has the following goals and policies related to the proposed project that would reduce hazardous material impacts:

- *Hazardous Materials Policy 1.* The City should require proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal.
- *Hazardous Materials Policy 3.* The City should incorporate soil and groundwater contamination analysis within the environmental review process for development proposals. When contamination is present on a site, the City should report this information to the appropriate agencies that regulate the cleanup of toxic contamination.
- *Soils and Geological Conditions Policy 9.*The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landholdings, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.

4.8.1.2 Santa Clara County Airport Land Use Commission (ALUC) Referral Boundary

Most of the Greater Downtown area, including the project site, is subject to a series of policies and evaluations due to its proximity to flight paths of the San José International Airport and its location within the Santa Clara County Airport Land Use Commission (ALUC) Referral Boundary. As described in below in Section 4.9.1.2, Land Use Regulations, proposed buildings that exceed the Federal Aviation Administration's (FAA's) imaginary surface restrictions over the project area or which would stand at least 200 feet in height above ground, could be potential hazards to the safe operation of the airport. Such projects require review by the FAA and a "Determination of No Hazard," which determines based on an aeronautical study if the proposed building height at a specific location would create a hazard to operations at the airport. The project site is located approximately 2 miles northwest of the San José International Airport and is located within the 120-foot building height limit determined by the FAA.

4.8.1.3 Site Conditions

The project site has been vacant since the late 1980s.[38] Surrounding land uses include commercial and residential uses, and a number of vacant parcels.

The project area was previously occupied by a variety of industrial and commercial uses during the 1950s.[39] Based on a summary report of the Brandenburg Mixed-Use project area[40] that was included in the Brandenburg EIR, a majority of the project site was occupied since the late 1800s, and was used for warehouse and waste paper bailing operations. The southern portion of the project site was historically

[38] Krazan and Associates, Inc., 2000, op. cit.

[39] LSA Associates, Inc. 2003, op. cit.

[40] Brown and Caldwell, 2001. Summary of Hazardous Materials Associated with Brandenburg/Northern Gateway Redevelopment Project, Memorandum from David Marrs to Cy Colburn, Legacy Partners, Inc., January 31.

used for painting and maintenance shops. The project site has been relatively vacant since the late 1980s.[41]

4.8.2 Environmental Checklist and Discussion of Impacts

Hazards and Hazardous Materials						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐ 1,3	
Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐ 1,3,8	
Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐	☒	1
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?	☐	☐	☐	☐	☒ 1,9,10	,11
For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐	☒ 1,12	
For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐	☒	1
Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☐	☒	1
Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☐	☒	1

4.8.2.1 Use, Storage and Disposal of Hazardous Materials

The proposed project consists of construction of a new residential building at the project site, and would not include the routine transport, use, or disposal of hazardous waste.

[41] Krazan and Associates, Inc., 2000, op. cit.

Construction of the proposed project would involve the use of and disposal of chemical agents, solvents, paints, and other hazardous materials that are commonly associated with construction activities. The amount of these chemicals present during construction would be limited, would be in compliance with existing government regulations (federal, State, regional, and local) and would not be considered a significant hazard. Therefore, development of the proposed project is unlikely to create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Implementation of Mitigation Measure HAZMAT-3 from the Brandenburg EIR would ensure the preparation of a site safety plan/soil and groundwater management plan.

Impact HAZMAT-3: Improper use or transport of hazardous materials during construction activities could result in releases affecting construction workers and the general public. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM HAZMAT-3: A Site Safety Plan/Soil and Groundwater Management Plan shall be prepared, which will address emergency procedures and the management and disposal of contaminated soils and groundwater (see Mitigation Measure HAZMAT-1a below). Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, State, and federal hazardous materials regulations. No additional mitigation is required. Implementation of this mitigations measure would reduce this impact to a less-than-significant level.

4.8.2.2 Release of Hazardous Materials

Based on a Phase I Environmental Site Assessment report[42] prepared by Krazan and Associates, Inc. (see Appendix C), concentrations of arsenic, lead, chromium, nickel, hydrocarbons, and other chemicals were reported in shallow soil at the project site. Further investigation and a risk assessment of the project site were prepared. The Regional Water Quality Control Board (RWQCB) approved the risk assessment and concluded the concentrations of the chemicals found on the project site were unlikely to pose a threat to human health, and a risk-based cleanup action was not necessary for the project site. However, an adequate health and safety plan for the project site was recommended during construction time. Implementation of Mitigation Measure HAZMAT-1a from the Brandenburg EIR would ensure implementation of a health and safety plan.

Impact HAZMAT-1: Development of the project could expose construction workers and/or the public to hazardous materials from known residual soil and groundwater contamination or previously undiscovered contamination during construction activities. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM HAZMAT-1a: Prior to issuance of any grading, demolition, or building permits for the project, a Site Safety Plan/Soil and Groundwater Management Plan (Plan) should be prepared. At a minimum, the Plan should establish soil and groundwater mitigation and control specifications for grading and construction activities, including health and safety provisions for monitoring exposure to

[42] Krazan and Associates, Inc., 2000, op. cit.

construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The Plan should also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations. Implementation of this mitigations measure would reduce this impact to a less-than-significant level.

4.8.2.3 Emission of Hazardous Materials within Quarter-mile of a School

The project site is not located within ¼ mile of an existing or proposed primary or secondary public school. The proposed project would not emit or handle hazardous materials after construction and therefore would not pose a health risk related to proximity to an existing or proposed school site.

4.8.2.4 Hazardous Materials Site Pursuant to Government Code Section 65962.5

The project site is not listed on the Regional Water Quality Control Board's (Water Board) leaking underground storage (LUST) database[43] and the RWQCB spills, leaks, investigations, and cleanups (SLIC) database,[44] two of the component databases that comprise the State Cortese List of known hazardous materials sites compiled pursuant to Government Code Section 65962.5. The project site is not listed on other components of the Cortese List, including the DTSC hazardous waste and substances list.[45]

4.8.2.5 Location within Vicinity of Airport Land Use Plan

The San José International Airport is located approximately 2 miles from the project site. As described in Section 4.8.1, Setting, the project site is subject to a series of policies and evaluations due to its proximity to flight paths of the San José International Airport and its location within the Santa Clara County Airport Land Use Commission (ALUC) Referral Boundary.

The proposed project would be up to 77 feet above ground level and 152 feet above mean sea level. The FAA issued a "No Hazard to Air Navigation" Determination for the proposed project in March 2011 (see Appendix D). The FAA's aeronautical study found that the proposed building does not exceed obstruction standards and would not be a hazard to air navigation. Based on the aeronautical study, marking and lighting on the proposed building are not necessary for aviation safety.

4.8.2.6 Location Within the Vicinity of A Private Airstrip

The project site is not located within the vicinity of a private airstrip.

4.8.2.7 Emergency Response or Evacuation Plan

The proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Construction staging will be confined to the project site; none of the staging area would take place on a public street. Construction staging would occur in the northeast portion of the site, east of the terminus of Terraine Street; where the proposed rain garden would be eventually be located. A street vacation would be processed by the City of San José,

[43] Regional Water Quality Control Board, 2011. LUSTIS Database. Website: www.geotracker.swrcb.ca.gov/ (accessed June 6).

[44] Regional Water Quality Control Board, 2011. SLIC Database. Website: www.geotracker.waterboards.ca.gov/ (accessed June 6).

[45] California, State of, 2011. Department of Toxic Substances Control. Hazardous Waste and Substances Site List. Website: www.dtsc.ca.gov/database/Calsites/CorteseList.cfm (accessed June 6).

which would incorporate this segment of Terraine Street onto the project site. The construction staging would then be moved to the podium level as soon as the construction of this level is completed. Therefore, the project will not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

4.8.2.8 Wildland Fires

The project site is located in an urban setting and developed area. Development of the project would not expose people or structures to a significant risk associated with wildland fires.

4.8.3 Conclusion

The proposed project, with the implementation of the above mitigation measures, would not result in new or significant hazards impacts than those addressed in the certified Brandenburg EIR. **(No New Significant Impacts)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

The existing drainage and regulatory requirements regarding hydrology and water quality are generally unchanged from the certified Brandenburg EIR. As described below, the primary changes are the City's revised Post-Construction Urban Runoff Management Policy (Policy 6-29, revised August 2006), the revised adoption of the Post-Construction Hydromodification (HM) Management Policy and HM Applicability Map (Policy 8-14), and the RWQCB's Municipal Stormwater NPDES Permit (MRP)'s new requirements for new and redevelopment projects that create and/or replace 10,000 square feet or more of impervious surface.

The project site is relatively level and is approximately 80 feet above mean sea level, and is vacant, undeveloped and unpaved.[46] Most stormwater runoff from the project site flows overland into the City-maintained storm drainage system, and eventually discharges into the Guadalupe River, located approximately ½ mile west of the project site. Storm drain lines are located along Bassett and Terraine Streets. The approximate depth to groundwater at the project site is 21 feet below ground surface where groundwater flows north.[47]

4.9.1.1 Flooding

The Downtown Guadalupe River Flood Protection project was completed in 2004, after the Brandenburg EIR was certified. Under the direction of the U.S. Army Corps of Engineers and the Santa Clara Valley Water District, the project included modifications to the river, which included flood protection, recreation, and related mitigation measures primarily along the river north of Grant Street. After completion of the flood improvements, the Federal Emergency Management Agency (FEMA) issued a flood map revision for the downtown area, including the project site.

The Flood Insurance Rate Maps issued by FEMA, effective May 18, 2009, indicate that the project site is within Zone X. Zone X is defined as "areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1 percent annual chance flood".[48] The project site is not located within a 100-year flood zone as mapped by FEMA. Because the project site is outside the 100-year flood zone, it is not subject to the City's Municipal Code Title 17, Chapter 17.08 Floodplain Management regulations for new development.

4.9.1.2 Regulatory Requirements

As described in the Brandenburg EIR, the discharge of stormwater from the City's municipal storm sewer system is regulated by the Federal National Pollution Discharge Elimination System (NPDES) Nonpoint Source Program (established through the Clean Air Act). The program is administered by the California Regional Water Quality Control Boards and the project site is under the jurisdiction of the San Francisco Bay Regional Water Quality Control Board (RWQCB) with respect to post-construction run-off, through the stormwater MRP issued to the City as a participant in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). City compliance with the MRP is mandated by state and federal laws, statutes, and regulations.

[46] Krazen and Associates, Inc., 2000, op. cit.

[47] Ibid and Carroll Engineering, 2010, Storm Water Control Plan, Upper Levels. October 28.

[48] Federal Emergency Management Agency (FEMA), 2009. Flood Insurance Rate Map, City of San José, Community Panel No. 060-349-0234H, Map Item ID: 06085C0234H Website: www.fema.gov/hazard/map/index.shtm (accessed June 7, 2011).

Additional water quality control measures were approved in October 2001 (revised in July 2005), when the RWQCB adopted an amendment to the MRP for Santa Clara County.[49] This amendment, commonly referred to as "C3" requires all new and redevelopment projects that result in the addition or replacement of impervious surfaces totaling 10,000 square feet or more to: 1) include stormwater treatment measures; 2) ensure that the treatment measures be designed to treat an optimal volume or flow of stormwater runoff from the project site; and 3) ensure that stormwater treatment measures are properly installed, operated, and maintained.

The Brandenburg EIR identified the changes to the SCVURPPP permit that were detailed in RWQCB Revised Order 01-024 (NPDES Permit No. CAS029718), and stated that Provision C.3 could potentially apply to the Brandenburg Mixed-Use project. Provision C.3 specified that significant development or redevelopment projects must include post-construction stormwater controls, meeting specific hydraulic sizing design criteria, unless it is impracticable to meet the sizing criteria; and the project includes an alternative methods for treating an equivalent pollutant loading or quantity of stormwater runoff, or provides another equivalent water quality benefit.

According to the Brandenburg EIR, the Brandenburg Mixed-use project area was subject to the following items under the RWQCB Revised Order 01-024 (in this case, the "discharger" referred to in the text is the City of San José:

- Environmental documents required for those projects that fall under CEQA or NEPA review, such as EIRs, negative declarations, and initial study checklists, shall address stormwater quality impacts during the life of the project (both significant and cumulative), required permits, and specific mitigation measures related to stormwater quality.
- Each Discharger, to the maximum extent practicable, shall require developers of projects with significant stormwater pollution potential to mitigate stormwater quality and volume impacts, through proper site planning and design techniques and/or addition of permanent post-construction stormwater treatment control measures ("treatment controls").
- Where more than fifty percent of a redevelopment project site is being replaced, the entire project site must meet specified hydraulic sizing criteria for the treatment of stormwater runoff, unless it is impracticable to meet the criteria; and the project includes an alternative method for treating an equivalent pollutant loading or quantity of stormwater runoff, or provides another equivalent water quality benefit.
- Each Discharger shall require developers of projects that include installation of permanent structural stormwater controls to establish and provide a method for operation and maintenance of such structural controls.

On October 14, 2009 (since the adoption of the Brandenburg EIR), the San Francisco Bay RWQCB adopted a new MRP for the San Francisco Bay Region,[50] including the City of San José. Within the RWQCB's newly adopted Permit are new Hydromodification Management requirements for new development and redevelopment projects, including the proposed project.

The City has developed a policy that implements Provision C.3 of the MRP, requiring new development projects to include specific construction and post-construction measures for improving the water quality of urban runoff to the maximum extent feasible. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes general guidelines and minimum Best Management Practices (BMPs) and

[49] RWQCB Order No. R2-2005-0035 (NPDES Permit No. CAS029718)

[50] California Regional Water Quality Control Board, San Francisco Bay Region, Municipal Regional Stormwater NPDES Permit, Order R2-2009-0074. (NPDES Permit No. CAS612008)

Treatment Control Measures (TCMs) for specified land uses, and includes the requirement of regular maintenance to ensure their effectiveness. Since the proposed project would create more than 10,000 square feet of impervious surface, source control measures and hydraulically-sized TCMs that meet the standards listed in Policy 6-29 are required.[51]

The Permit also contains provision C.3.c Low Impact Development, which has new requirements for the use of source control, site design and the exclusive use of feasible Low Impact Development (LID) Stormwater Treatment measures on-site or at a joint stormwater treatment facility. These new requirements will apply to planning permits for new and redevelopment projects that create and/or replace 10,000 square feet or more of impervious surface that obtain final approval after December 1, 2011. In addition to measures that reduce the amount of pollutants that enter stormwater (source control) LID measures include the following techniques to reduce the quantity and/or improve the quality of stormwater at or near its source: rainwater harvesting, infiltration, evapotranspiration, and biotreatment. If the proposed project is approved after December 1, 2011, the project will be subject to the new LID requirements.

The City also adopted the Post-Construction Hydromodification Management Policy (8-14), which requires stormwater discharges from new and redevelopment projects that create or replace one acre or more of impervious surface to be designed and built to control project-related hydromodification, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. The Policy establishes specified performance criteria for Post-Construction hydromodification control measures (HCMs) and identifies project which are exempt from HCM requirements

In February 2010, the San José City Council adopted a revision of Policy 8-14 and the associated Hydromodification Management (HM) Applicability Map to bring the City's existing Policy into compliance with the San Francisco Bay Regional Water Quality Control Board's (RWQCB's) new Permit. The revised Policy 8-14 requires projects that create and/or replace one acre or more of impervious surface that are located within certain subwatershed and catchment areas to design, build, and maintain hydromodification management control measures that hold and slow down the volume of stormwater runoff coming from a site to pre-project conditions. Policy 8-14 also includes a Hydromodification Management (HM) Applicability Map that shows subwatershed and catchment areas for all of Santa Clara County. As of June 2011, the City, with SCVURPPP, is in the process of preparing a HM Applicability Map (reflecting the same subwatershed and catchment area information) at an enlarged scale for the jurisdictional boundaries of San José.[52] The proposed project, which is less than one acre, would not be subject to Policy 8-14.

[51] San José, City of, 2011. Department of Planning, Building, and Code Enforcement. Stormwater Management. Website: www.sanJoséca.gov/planning/stormwater/ (accessed June 7).

[52] Ibid.

4.9.2 Environmental Checklist and Discussion of Impacts

Hydrology and Water Quality						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐	☐ 1,2,3	
Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐	☐ 1,2	
Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐	☐ 1,3	
Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☒	☐	☐ 1,3	
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?	☐	☐	☒	☐	☐ 1,3	
Otherwise substantially degrade water quality?	☐	☐	☒	☐	☐ 1,2,3	
Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☒	☐	☐ 1,2,13	
Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☒	☐	☐ 1,2,13	
Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding of as a result of the failure of a levee or dam?	☐	☐	☒	☐	☐ 1,2,13	
Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐ 1,2,16	

4.9.2.1 Water Quality Standards

The project site is currently vacant, undeveloped, and covered with pervious surface. Development of the proposed project would create 22,330 square feet of impervious surface area, covering approximately

70.5 percent of the project site.[53] Construction of the proposed project would involve grading and foundation work and as a result would substantially increase impervious surfaces on the site and would substantially increase stormwater runoff from the site.

Potential impacts to water quality that would occur with new development were addressed in the Brandenburg EIR and Mitigation Measure HYD-1 was identified to reduce potential impacts associated with construction-period and operation-period impacts to a less-than-significant level. These measures would generally reduce potential impacts of the project by requiring implementation of a Stormwater Pollution Prevention Plan (SWPPP) and implementation of Best Management Practices (BMPs) that increase infiltration and decrease total runoff.

While the above described measures would generally reduce potential water quality impacts of the proposed project, new stormwater management requirements described in Section 4.9.1.2, Regulatory Requirements, that were not considered in the Brandenburg EIR are now in effect and are applicable to development of the project site. These new requirements and revisions to Mitigation Measure HYD-1 are described below.

Post-Construction Urban Runoff Management Policy. The City of San José Post-Construction Urban Runoff Management Policy (6-29) establishes an implementation framework, consistent with the reissued SCVURPPP NPDES Permit requirements, for incorporating stormwater runoff pollution control measures into new and redevelopment projects. As described in Section 4.9.1.2, Regulatory Requirements, the policy requires all new and redevelopment projects to implement BMPs and TCMs to the fullest extent possible and also establishes specified design standards for TCMs for applicable projects. Applicable projects are defined as new development and significant redevelopment projects that create 10,000 square feet or more of impervious surface area.

Where a significant redevelopment project results in an increase, or replacement, of more than 50 percent of the impervious surface area of a previously existing development, and the previously existing development was not subject to stormwater control measures, the entire impervious surface area of the project site must be included in the application of the sizing design standard. Where a significant redevelopment project results in an increase, or replacement, of not more than 50 percent of the impervious surface area of a previously existing development, and the previously existing development was not subject to stormwater control measures, only the net new impervious surface area must be included in the application of the sizing design standard. Roof area that is not connected to downspouts and instead drains to properly sized and designed Post-Construction TCMs, may be excluded from the project square footage calculation for the purpose of determining whether additional treatment is required.

Applicable projects are to incorporate stormwater treatment systems designed per the following hydraulic sizing criteria:

- *Volume Hydraulic Design Basis:* Treatment control measures whose primary mode of action depends on volume capacity, such as detention/retention units or filtration or infiltration devices (including, insert filters and oil/water separators), shall be designed to treat storm water runoff equal to the maximized storm water quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (199*8), pages 175-178 (e.g., approximately the 85th percentile 24-hour storm runoff event); or the volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodol-

[53] Carroll Engineers, 2010. Storm Water Control Plans, Upper Levels, October 28. This calculation assumes 50 percent pervious for green rood and pervious pavement.

ogy set forth in Appendix D of the *California Stormwater Best Management Practices Handbook,* (1993), using local rainfall data.

- *Flow Hydraulic Design Basis:* Treatment control measures whose primary mode of action depends on flow capacity, such as vegetative swales, sand filters, or wetlands, shall be sized to treat: 10 percent of the 50-year peak flow rate; or the flow of runoff produced by a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or the flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity**.**

Project applicants would be responsible for verifying the rainfall data used to meet the above criteria and for providing engineering certification that the criteria have been met. Post-Construction Treatment Control Measure Tree Credit would be provided for new trees planted within 30 feet of impervious surfaces and for existing trees kept on a site if the trees' canopies are within 20 feet of impervious surfaces.

As described in Section 4.9.1.2, Regulatory Requirements, the MRP also contains Provision C.3.c Low Impact Development, which has new requirements for the use of source control, site design and the exclusive use of feasible Low Impact Development (LID) Stormwater Treatment measures on-site or at a joint stormwater treatment facility. Effective December 1, 2011, MRP permittees, which includes the City of San José, will require that projects treat 100 percent of runoff (based on the selected calculation described above) with LID treatment measures that include harvesting and reuse, infiltration, evapotranspiration, or biotreatment (biotreatment may only be used if the other options are infeasible).

Prior to the December 1, 2011 deadline, the MRP permittees, working collaboratively or individually, must submit for Water Board approval, a proposed set of model biotreatment soil media specifications and soil infiltration testing methods. A report on the criteria and procedures that will be used to determine when certain LID measures are infeasible must also be submitted.

By December 1, 2011 the MRP Permittees must require development projects to incorporate the following source control and site design measures:

- Properly designed trash storage areas;
- Landscaping that minimizes irrigation and runoff, promotes surface infiltration, minimizes the use of pesticides and fertilizers, and incorporates other appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping;
- Efficient irrigation systems;
- Limit disturbance of natural water bodies and drainage systems; minimize compaction of highly permeable soils; protect slopes and channels; and minimize impacts from stormwater and urban runoff on the biological integrity of natural drainage systems and water bodies;
- Minimize stormwater runoff by implementing one or more of the following site design measures:
    - Direct roof runoff into cisterns or rain barrels for reuse.
    - Direct roof runoff onto vegetated areas.
    - Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.
    - Direct runoff from driveways and/or uncovered parking lots onto vegetated areas.
    - Construct sidewalks, walkways, and/or patios with permeable surfaces.

Given that the above described requirements of the MRP were not in effect at the time that the Brandenburg EIR was completed; modifications to Mitigation Measure HYD-1 in the Brandenburg EIR would be required to reduce potential water quality impacts to a less-than-significant level. Therefore, Mitigation Measure HYD-1a, below is added to the existing measure to address current stormwater pollution prevention requirements. Modification of Mitigation Measure HYD-1 addresses new requirements to further reduce water quality impacts already identified in the Brandenburg EIR and does not address a new impact of the project that was not previously evaluated.

The proposed project would be subject to the following measures, which are consistent with the regulatory requirements of the NPDES Permit and associated City policies discussed above. The measures would reduce potential construction impacts to surface water quality to less-than-significant levels:

Construction Measures

- Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:
    1. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities;
    2. The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
- The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay.* Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, San José, California 95113. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535-8300.
- The project applicant shall comply with the City of San José Grading Ordinance, including 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. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
    1. Restriction of grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season.
    2. Utilize on-site sediment control BMPs to retain sediment on the project site;
    3. Utilize stabilized construction entrances and/or wash racks;
    4. Implement damp street sweeping;
    5. Provide temporary cover of disturbed surfaces to help control erosion during construction;
    6. Provide permanent cover to stabilize the dist urbed surfaces after construction has been completed.

Post-Construction

- Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific Best Management Practices (BMPs), including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled "No Dumping – Flows to Bay" to the satisfaction of the Director of Planning, Building and Code Enforcement.
- The project shall comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development.
- The project shall comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29) which establishes guidelines and minimum BMPs for all projects and 2) Post-Construction Hydromodification Management Policy (8-14) which provides for numerically sized (or hydraulically sized) TCMs.

Impact HYDRO-1: Construction activities and post-construction operation of the project could result in degradation of water quality in the Guadalupe River and the Bay by reducing the quality of storm water runoff. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM HYD-1: The applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction and life of the project. The SWPPP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with implementation of the project. The SWPPP shall include:

- **Specific and detailed BMPs designed to mitigate construction-related pollutants**. These controls shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.

  An important component of the storm water quality protection effort will be the education of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.

  The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. City of San José and RWQCB personnel may make unannounced site inspections and are empowered to levy considerable fines if it is determined that the SWPPP has not been properly prepared and implemented.

  Best Management Practices (BMPs) designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased when grading occurs during the rainy season, as disturbed soil can be exposed to rainfall and storm

runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Access to and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment (this BMP is particularly important since much of the earthwork will involve loading trucks for off-site transport of soil excavated or the below-ground parking structures). Vehicle and equipment wash down facilities shall be designed to be accessible and functional both during dry and wet conditions.

- **Measures designed to mitigate post construction-related pollutants.** The project shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development, including roof and sidewalk runoff. The final design team for the project should review *Start at the Source*, Design Guidance Manual for Stormwater Quality Protection.[54] The selected permanent stormwater treatment measures may include biofilters and grassy swales; and the selected measure must meet the hydraulic sizing criteria specified in the most current NPDES municipal stormwater permit issued to the City of San José, unless the developer demonstrates that it is impracticable to meet the criteria; and the project includes an alternative method for treating an equivalent pollutant loading or quantity of stormwater runoff, or provides another equivalent water quality benefit.

Mitigation Measure: The proposed project would be required to implement the following additional mitigation measure to MM HYDRO-1:

MM HYDRO-1a: <u>In accordance with the MRP, the applicant shall implement the following MRP requirements to control pollutants in post-construction stormwater runoff and non-stormwater discharges, and runoff volumes and rates, which shall be submitted for review to the City of San José Planning Division:</u>

- <u>Locations of all stormwater treatment BMPs, sized in accordance with the MRP Provision C.3., shall be shown on a site plan.</u>
- <u>Roof runoff shall be directed to a rainwater harvest system and/or or vegetated areas.</u>
- <u>The project applicant shall submit an Operations and Maintenance (O&M) Plan that details the O&M responsibility mechanism and maintenance requirements for all stormwater treatment systems, for the life of the project</u>.[55]

4.9.2.2 Deplete Groundwater Supplies

Studies conducted at the project site encountered free groundwater at depths of about 17 to 20 ½ feet. Fluctuations in groundwater are common due to variations in rainfall, underground drainage patterns,

[54] Bay Area Stormwater Management Agencies Association, 1999. *Start at the Source, Design Guidance Manual for Stormwater Quality Protection.*

[55] Additional text for Mitigation Measure HYDRO-1 is underlined.

and other factors. Groundwater on the project site is, therefore, estimated to be encountered at 10 to 14 feet below the existing grade.

No long-term ground water extraction is proposed as part of the proposed project and the site is not underlain by a regional aquifer. Limited excavation would take place at the site to accommodate the proposed project. Project construction would not result in the substantial dewatering or otherwise affect the groundwater table and as a result, groundwater quantity would not be significantly affected by the proposed project.

4.9.2.3 Drainage Pattern and Surface Run-off

The course of streams and rivers would not be affected by the proposed project. The increase in impervious surfaces as a result of project construction would be substantial, however implementation of Mitigation Measure HYD-1, recommended in the Brandenburg EIR, and Mitigation Measure HYD-1a, would ensure that potential impacts associated with on- or off-site erosion, siltation or flooding would be less than significant.

Additionally, the proposed project features a bioretention basin (rain garden) and a "living" green roof. The rain garden and green roof would direct run-off onto vegetated areas, decreasing the amount of surface run-off to the City's stormwater drainage system.

Runoff from the project site area currently drains to the City-maintained storm drainage system, which drains into the Guadalupe River. With the implementation of Mitigation Measure HYD-1, recommended in the Brandenburg EIR, and Mitigation Measure HYD-1a, runoff from construction or operation of the proposed project would not exceed the capacity of existing or planned stormwater drainage system nor provide substantial additional sources of polluted runoff.

4.9.2.4 Flooding and Dam Failure Inundation

The proposed project includes the development of housing. As described in Section 4.8.1.1 Flooding, the project site is not located within a 100-year flood zone as mapped by FEMA. Because the project site is outside the 100-year flood zone, it is not subject to the City's Municipal Code Title 17, Chapter 17.08 Floodplain Management regulations for new development. Due to the existing protections in place, dam failure is unlikely and it not probable that the project would be impacted by dam failure. Therefore, the proposed project would not expose people or structures to a significant risk of loss, injury or death involving flooding due to inundation resulting from failure of a levee or dam.

4.9.2.5 Inundation by Seiche, Tsunami, or Mudflow

The proposed project is not located adjacent an enclosed body of water, and would not face the risk of inundation from seiche.[56] A tsunami is a sea wave produce by an offshore earthquake, volcanic eruption, or landslide.[57] Wave run-up heights of greater than 20 feet have an extremely low recurrence level (less than once every 200 years) in the Bay Area.[58] The project site is located approximately 10 miles south

[56] Seismic seiches are standing waves set up on rivers, reservoirs, ponds, and lakes when seismic waves from an earthquake pass through the area.

[57] Steinbrugge, K, 1982. *Earthquakes, Volcanoes, and Tsunamis, An Anatomy of Hazards,* Skandia America Group.

[58] Ritter, J.R., W.R. Dupre, 1972. Maps Showing Areas of Potential Inundation by Tsunamis in the San Francisco Bay Region, California, U.S. Geological Survey, Misc. Field Studies MF 480.

from the San Francisco Bay, and would not be exposed to the risk of tsunamis.[59] Because the project site is relatively flat, it is not prone to mud flows during heavy storm events.

4.9.3 Conclusion

The proposed project, with the implementation of the above mitigation measures, would not result in new or more significant hazards impacts than those addressed in the certified Brandenburg EIR. **(No New Significant Impacts)**

[59] California Emergency Management Agency, 2009. Coastal Region. Geographic Information Systems, Hazard Maps, Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region. Website: quake.abag.ca.gov/tsunamis/ (accessed June 7, 2011).

4.10 LAND USE AND PLANNING

4.10.1 Setting

4.10.1.1 Existing and Surrounding Land Uses

The 0.73-acre project site is currently vacant. The project site is located within the City's downtown area. As shown in Figure 2, commercial, office and residential uses exist in the vicinity of the project site. Vacant parcels are also scattered throughout the project area. The Union Pacific Railroad right-of-way and a four-story apartment complex known as Legacy Foundation Apartments are located north of the project site. A one-story commercial building is located immediately east of the project site and North San Pedro Street is located one block east. Farther east, residential uses are located past Coleman Avenue and North Market Street. Vacant parcels are located directly south of the project site, fronting Bassett Street. Office uses with a surface parking area are located farther south, at the intersection of Terraine Street and Old West Julian Street. SR-87 is located directly west of the project site. Bassett Street continues west under the freeway and ends at the intersection of North Pleasant Street. To the west of SR-87, commercial and office uses front the western portion of Bassett Street.

City parks and open space in the project vicinity include Ryland Park and Saint James Park, located northeast and southeast of the project site, respectively. The Guadalupe River Park, a regional park, is located west of the project site and includes McEnery Park, Arena Green, and the Discovery Meadow. The Guadalupe River Park is stretches from West Taylor Street to West San Carlos Street.

4.10.1.2 Land Use Regulations

Applicable City of San José plans which regulate development of the project site include the City of San José 2020 General Plan[60] and the San José Zoning Ordinance. The City of San José is currently in the process of updating the 2020 General Plan. The new General Plan, also known as the Envision San José 2040 General Plan Update, was adopted by the City Council on November 1, 2011.[61] The land use designation for the project site under the 2040 General Plan Update is Downtown. The goal of this designation is to strengthen the downtown area as a regional job, entertainment, and cultural destination and as the symbolic heart of San José. Like the existing 2020 General Plan designation of Core Area, the Downtown designation includes office, retail, service, residential, and entertainment uses. In addition, the project site is subject to the regulations of the Santa Clara County Airport Land Use Commission's (ALUC) Airport Land Use Plan.

The existing Core Area designation includes office, retail, service, residential and entertainment uses in the Downtown Core area. Higher density residential uses at a minimum of 30 dwelling units per acre or mixed use development of commercial and residential uses are appropriate as is development of either use individually. Residential uses within this designation should only be allowed where they are compatible with adjacent development. In the Downtown Core area, the maximum building height is defined by the airspace requirements of the San José International Airport as established by the Federal Aviation Administration (FAA).

The project site is zoned Downtown Primary Commercial (DC). Allowed uses in the DC district include the following: offices and financial services; general retail; education and training; entertainment and recreation related uses; health and veterinary services; food services; general services; public, quasi-

[60] San José, City of, 2010. *City of San José 2020 General Plan.* Last Amended December 7.

[61] San José, City of, 2011. Department of Planning, Building, and Code Enforcement. Envision San José 2040. Website: www.sanJoséca.gov/planning/gp_update/default.asp (accessed June 3).

public and assembly uses; residential; residential accessory uses; transportation and communication; electrical power generators; and vehicle related uses.[62]

Various policies in the City's General Plan have been adopted that avoid or mitigate land use impacts resulting from planned development within the City. The City of San José has the following goals and policies related to the proposed project that would reduce land use impacts:

- *Residential Land Use Policy 1.* Residential development at urban densities (one dwelling unit per acre or greater) should be located only where adequate services and facilities can be feasibly provided.
- *Residential Land Use Policy 5.* Residential development should not be allowed in areas with identified hazards to human habitation unless these hazards are adequately mitigated.
- *Residential Land Use Policy 11.* Residential developments should be designed to include adequate open spaces in either private yards or common areas to partially provide for residents' open space and recreation needs.
- *Residential Land Use Policy 20.* New residential projects, including buildings, roads, and landscaping components should be designed to maximize energy conservation, minimize water usage, and facilitate waste reduction and recycling to the extent feasible.
- *Residential Land Use Policy 24.* New residential development should create a pedestrian friendly environment by connecting the features of the development with safe, convenient, accessible, and pleasant pedestrian facilities. Such connections should also be made between the new development, the adjoining neighborhood, transit access points, and nearby commercial areas.
- *Urban Design Policy 1.* The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.
- *Urban Design Policy 2.* Private development should include adequate landscaped areas. Landscaped areas should utilize water efficient plant materials and irrigation systems. Energy conservation techniques such as vegetative cooling and wind shielding should also be utilized. All landscaped areas should include provision for ongoing landscape maintenance.
- *Urban Design Policy 18.* To the extent feasible, sound attenuation for development along City streets should be accomplished through the use of landscaping, setback and building design rather than the use of sound attenuation walls. Where sound attenuation walls are deemed necessary, landscaping and an aesthetically pleasing design shall be used to minimize visual impact.
- *Urban Design Policy 22.* Design guidelines adopted by the City Council should be followed in the design of development projects.

In addition to the policies of the General Plan, the proposed project would be required to comply with the Residential Design Guidelines, which includes parameters for setbacks, building design, landscaping, screening, and lighting.

The proposed project, located in the Downtown Core area also supports the goals and implementation of the Downtown Strategy Plan. The Downtown Strategy Plan was adopted in 1992 and provides a long-range program for the redevelopment and preservation of the central core of Downtown San José. The objective of the Downtown Strategy Plan is to promote the development of a prominent and vital 24-hour downtown that is a catalyst to bring new investment, residents, and visitors to the center of the City. The Downtown Strategy Plan envisions Downtown as a regional focus for employment, cultural activities, entertainment, civic uses, and retail activity at the center of an expanding transit network, and near to existing and planned residential areas.

[62] San José, City of, 2010. San José Zoning Ordinance, Chapter 20.70. Last Amended December 10.

Most of the Greater Downtown area, including the project site, is subject to a series of policies and evaluations due to its proximity to the flight paths of the San José International Airport and its location within the ALUC Referral Boundary. The Land Use Plan for Areas Surrounding Santa Clara County Airports and the City General Plan (Aviation) Policies #47 to #49 require that airspace required for safe operation of the Airport be maintained and that aviation easement dedications be required for development in the vicinity of airports.

Policy #47 requires the project to be in compliance with the guidelines of the FAA. Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (referred to as FAR Part 77) set forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing reflective surfaces, flashing lights, electronic interference and other potential hazards to aircraft in flight. These regulations require that the FAA be notified of certain proposed construction projects within an extended zone defined by a set of imaginary surfaces radiating outward for several miles from the airport's runways or which would stand at least 200 feet in height above ground. Pursuant to FAR Part 77, any proposed structure which would exceed an FAA imaginary surface or which would stand at least 200 feet in height above ground must be submitted to the FAA for an aeronautical study to determine whether the specific structure would constitute a hazard to aircraft.

4.10.2 Environmental Checklist and Discussion of Impacts

Land Use and Planning						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Physically divide an established community?	☐	☐	☐	☒	☐ 1,2	
Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐ 1,2,3	
Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	☐ 1,2,3	

4.10.2.1 Disrupt or Divide an Established Community

Projects that have the potential to physically divide an established community include projects such as new freeways and highways, major arterials, streets, and railroad lines. The proposed project includes the construction of a six-story 135-unit residential building on vacant parcels. The construction of the residential building would improve the utilization of the parcels and better integrate the site with the surrounding area because the proposed building would have a stronger presence in the predominantly vacant surrounding area. As indicated in the Brandenburg EIR, development would continue a pattern of land use change in an area from older commercial and industrial uses toward medium to high-density housing. The proposed project would help connect and complete a community town by street and transportation layout, vacant land, and older industrial and commercial uses.

4.10.2.2 Conformance with Land Use Plans

The 2020 General Plan Land Use/Transportation Diagram identifies the project site as within the Downtown Core area where it is designated for Core Area uses. The project site is zoned for Downtown Primary Commercial (DC). Future downtown development is directed by the Downtown Strategy Plan, which guides development in the Downtown Core and Frame Areas through the year 2010. Surrounding properties immediately north and further east of the project site are designated as Residential Support for the Core Area (30+ DU/AC). Properties located immediately east, south, and west of the project site are designated as Core Area.

The Brandenburg EIR documented the ways in which the Brandenburg Mixed-Use project supports the goals and implementation of the Downtown Strategy Plan because the Brandenburg Mixed-Use project would promote development of housing and retail uses near transit opportunities and near existing residential development. The proposed project would be consistent with the planned land use of the site.

The proposed project would be up to 77 feet above ground level and 152 feet above mean sea level. The FAA issued a "No Hazard to Air Navigation" Determination for the proposed project in March 2011 (see Appendix D). The FAA's aeronautical study found that the proposed building does not exceed obstruction standards and would not be a hazard to air navigation. Based on the aeronautical study, marking and lighting on the proposed building are not necessary for aviation safety.

4.10.2.3 Land Use Compatibility

The Brandenburg EIR concluded that the development of housing near two elevated roadways (SR 87 and the Market Street/Coleman Avenue overpass) and adjacent to the railroad line could expose future residents to land use incompatibilities, as a significant land use compatibility impact. The development of housing near an elevated roadway increases the exposure of the new dwelling units to both light and glare, noise, visual intrusion, litter, dust and odors from passing vehicles. Implementation of Mitigation Measure LU-2 from the Brandenburg EIR, would ensure that the potential significant impact would be reduced to a less-than-significant level:

Impact LU-2: Developing housing near the two elevated roadways and adjacent to the railroad line could expose future residents to land use incompatibilities. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM LU-2: The City shall continue to implement the following 2020 General Plan goals and policies that related to the land use compatibility and design aspects of nearby roads, freeways and railroad rights-of-way:

- New Residential development should be oriented and designed to protect residents from any potential conflicts with adjacent land uses.
- *Urban Design Policy 1*— The City should continue to apply strong architectural and site controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.
- *Urban Design Policy 22*— Design guidelines adopted by the City Council should be followed in the design of development projects.

- *Parks and Recreation Policy 2*— Public parks, open space lands and other similar public areas should be located, oriented and designed in such a way as to facilitate their security and policing.

4.10.2.4 Habitat Conservation Plan

Refer to Section 4.4.2.6, Biological Resources, Conservation Plans. The proposed project would not conflict with the conservation strategies currently being developed as part of the proposed Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan or other local, regional, or State plans that protect biological resources.

4.10.3 Conclusion

The proposed project, with the implementation of the above mitigation measure, would not result in any new or more significant land use impacts than those addressed in the Brandenburg EIR. **(No New Impacts)**

4.11 MINERAL RESOURCES

4.11.1 Setting

The project site is located in a developed urban area within Downtown San José and mineral exploration and extraction is not performed in the project vicinity. Also, the project site is not located in an area designated as containing mineral resource deposits of regional importance.

4.11.2 Environmental Checklist and Discussion of Impacts

Mineral Resources						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	☐	☐	☐	☐	☒ 1,2	
Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☐	☒ 1,2	

Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated: the Communications Hill Area (Sector EE), bounded generally by the Southern Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as containing mineral deposits which are of regional significance as a source of construction aggregate materials. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation.

The project site is outside of the Communication Hill area and does not contain known mineral resources. Therefore, the proposed project would not result in a significant impact from the loss of availability of a known mineral resource.

4.11.3 Conclusion

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

4.12 NOISE

The following discussion is based on the Noise and Vibration Assessment Study, prepared by Edward L. Pack Associates, Inc., dated September 2, 2010, provided in Appendix E of this Addendum/Initial Study. For a further discussion on the characteristics of noise and explanation of noise terminology, please refer to this technical report.

4.12.1 Setting

4.12.1.1 Existing Site Conditions

The project is located in an urban area and is, therefore, influenced by several surrounding noise sources. Primary noise sources that affect the baseline noise level of the area include the following:

- Vehicle traffic on State Route 87 (SR 87, Guadalupe Parkway) and local traffic on the Market Street/Coleman Avenue overpass;
- Railroad noise from the Union Pacific Railroad tracks adjacent to the northern boundary of the site; and
- Aircraft noise from the San José International Airport (SJIA) located approximately 1½ miles to the northwest.

The existing noise environment of the project site and vicinity was determined through on-site noise measurements. Existing noise levels on the project site were documented as ranging from as high as 81 dBA L_{dn} at the project boundary next to SR 87, to 67 dBA L_{dn} at 500 feet from the centerline of SR 87. These noise levels are in excess of the normally acceptable noise standards for new residential land use development. Therefore, as noted in the Brandenburg EIR and in the Noise and Vibration Assessment Study, mitigation would be required to reduce noise to acceptable levels for interior spaces of the proposed residential units.

4.12.1.2 City of San José General Plan

The City of San José addresses noise in the 2020 General Plan Noise Element and in the provisions of the Municipal Code Noise Control Ordinance. The Noise Element standards specify an exterior noise limit of 60 dBA L_{dn} for residential land uses impacted by transportation related noise sources; a limit of 45 dBA L_{dn} is specified for interior living spaces. The Noise Element recognizes that full attainment of noise standards may not be achievable in the environs of Mineta/San José International Airport and the Downtown Core Area.

Various policies in the City's General Plan have been adopted that avoid or mitigate noise impacts resulting from planned development within the City. The City of San José has the following goals and policies related to the proposed project that would reduce noise impacts:

- *Noise Policy 1.* The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. To achieve the noise objectives, the City should require appropriate site and building design, building construction, and noise attenuation techniques in new development.
- *Noise Policy 8.* The City should discourage the use of outdoor appliances, air conditioners, and other consumer products which generate noise levels in excess of the City's exterior noise level guidelines.
- *Noise Policy 9.* Construction operations should use available noise suppression devices and techniques.

- *Noise Policy 11.* When located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses, non-residential land uses should mitigate noise generation to meet the 55 DNL guideline at the property line.
- *Noise Policy 12.* Noise studies should be required for land use proposals where known or suspected peak event noise sources occur which may impact adjacent existing or planned land uses.
- *Urban Design Policy 18.* To the extent feasible, sound attenuation for development along City streets should be accomplished through the use of landscaping, setback, and building design rather than the use of sound attenuation walls. Where sound attenuation walls are deemed necessary, landscaping, and an aesthetically pleasing design shall be used to minimize visual impact.
- *Urban Design Policy 21.* To promote safety and to minimize noise impacts in residential and working environments, development which is proposed adjacent to railroad lines should be designed to provide the maximum separation between the rail line and dwelling units, yards or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, areas of development closest to an adjacent railroad line should be devoted to parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth.

4.12.1.3 City of San José Municipal Code

The Zoning Ordinance of the San José Municipal Code contains performance standards for the generation of noise at adjacent properties. Noise from air-conditioning or other mechanical equipment is limited to a maximum of 55 dBA at residential property lines. The Code restricts construction or demolition activity to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. No construction or demolition work is permitted on Sundays or federal holidays.

4.12.1.4 California Building Code

The California Building Code (CBC) includes standards for interior noise levels. Specifically, noise levels from exterior noise sources must be reduced to a day-night sound level (DNL) of 45 dBA or less in habitable rooms of multi-family housing. Projects exposed to exterior noise levels greater than 60 dBA DNL require an acoustical analysis showing that the proposed design will limit interior noise levels to the allowable interior noise level of 45 dBA. Additionally, if windows must be closed to meet the interior standards the design of the buildings must include a ventilation or air-conditioning system to provide a habitable interior environment with the windows closed.

4.12.1.5 Federal Transit Administration

The Federal Transit Administration (FTA), in a document titled Transit Noise and Vibration Impact Assessment, provides guidelines for levels of ground-borne vibration due to rail lines adjacent to various land uses. The guidelines suggest maximum vibration levels of 72 velocity decibels (VdB) for frequent events (more than 70 trains per day), 75 VdB for occasional events (30 to 70 trains per day), and 80 VdB for infrequent events (fewer than 30 trains per day). While these guidelines are generally intended to help assess the potential of new rail projects adjacent to existing land uses, they are frequently used to help assess the compatibility of new projects adjacent to existing rail lines.

4.12.1.6 Single Noise Events

The State of California and the City of San José have no specific regulations for short-term interior noise levels from outdoor sources such as trains or traffic. Cities that regulate single-event noise typically use a maximum instantaneous interior noise level of 50 dBA in bedrooms and 55 dBA in other rooms. Because of the potential effects of single-event noise on sleep and the location of the site adjacent to an existing rail line, the single-event threshold used by other cities will be applied as a threshold for this noise analysis.

4.12.2 Environmental Checklist and Discussion of Impacts

Noise						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐ 1,2,3	,17
Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐ 1,2,3	,17
A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐ 1,2,3	,17
A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐ 1,2,3	,17
For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐ 1,2,3	,17
For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐ 1,2,3	,17

4.12.2.1 Construction-Period Impacts

As noted in the Brandenburg EIR, noise levels from construction activities such as finished grading and building erection for the proposed project may range up to 91 dBA L_{max} at 50 feet from the active construction area for a limited time period. The closest existing sensitive receptor would be the four-story apartment complex known as Legacy Foundation Apartments, whose nearest façade is located across the UPRR tracks approximately 60 feet north of the proposed project building. At this distance, noise from project construction may range up to 89.4 dBA L_{max} during the loudest phase of construction. If the use of impact pile driving is required for the proposed foundation, construction could generate noise levels above 90 dBA L_{max} at the nearby apartment complex.

Construction activities are also known source of groundborne noise and vibration. Construction of the proposed project would require the use of heavy excavation equipment. Typical groundborne vibration levels measured at a distance of 25 feet from heavy construction equipment in full operation, such as vibratory rollers, range up to approximately 94 VdB.[63] These vibration levels would not be expected to cause damage to residential buildings of typical northern California construction. Pile driving can result in typical groundborne vibration levels of 104 VdB at a distance of 25 feet from the operating equipment.

[63] To distinguish noise levels from vibration levels, the unit is written as VdB.

The FTA construction vibration impact threshold for structures made of non-engineered timber and masonry is 94 VdB. The closest sensitive receptors to the proposed construction areas include the apartment complex known as Legacy Foundation Apartments, whose nearest façade is located across the UPRR tracks approximately 60 feet north of the proposed project building. At this distance, vibration levels from pile driving activities would be reduced to 92 VdB, which is below the FTA's construction vibration impact criteria for this type of structure. Therefore, vibration impacts from construction activities, including the potential use of pile driving, would be considered less-than-significant and no mitigation would be required.

As described in Section 4.12.1.3, the proposed project would be subject to the following performance standards outlined in the City's Municipal Code:

- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
- Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
- Post-construction mechanical equipment shall conform to the City's General Plan limitation of 55DNL at residential property lines and 60DNL at commercial property lines.

The proposed project would not result in any new or more significant construction-period noise impacts than were described in the certified Brandenburg EIR. Implementation of Mitigation Measure NOI-3 from the Brandenburg EIR and included below would reduce this impact to less-than-significant levels.

Impact NOI-3: Construction period activities could create significant short-term noise impacts. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM NOI-3: Implementation of the following multi-part measure would reduce potential construction period noise impact to less-than-significant levels:

- Construction activities shall be limited to daytime hours (7 a.m. to 7 p.m. weekdays) for any construction within 500 feet of a residence.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.
- In the event that pile driving is proposed, nearby residents shall be notified of the schedule for its use while it is in use. Portable acoustical barriers shall be installed around pile driving equipment.
- A name, address, and phone number of a contact person shall be posted on the site to handle noise complaints.
- Unnecessary idling of internal combustion engines shall be prohibited.

- All stationary noise generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences.

4.12.2.2 Operational-Period Impacts

The proposed project would be exposed to traffic, railroad, and aircraft noise levels in excess of "normally acceptable" levels as set forth in the San José land use compatibility guidelines.

The proposed long-term use of this project site is residential land use. This land use would not generate additional ambient noise levels above those that already exist in the project vicinity. As such, stationary noise sources associated with implementation of the proposed project would result in a less-than-significant impact and no mitigation would be required. In addition, the project would not generate enough traffic to create a perceptible change in traffic noise in the vicinity of the project site. Therefore, the project would not result in a perceptible permanent increase in ambient noise levels in the project vicinity above levels existing without the project and no mitigation would be required to reduce the project's operational noise impacts to off-site uses.

Noise impacts to the newly proposed residential uses from existing and future traffic, railroad, and aircraft noise sources would be as follows:

Traffic Noise Impacts. Based on the latest traffic volume data available from Caltrans, SR 87 carries an Average Daily Traffic (ADT) volume of 99,000 vehicles. Thus, the nearest façade of the proposed project would be exposed to combined traffic, railroad and aircraft noise levels of approximately 81 dBA L_{dn}. Assuming an annual growth rate of 3.17[64] percent, future ADT for year 2029 would be 184,623. This would be expected to result in an increase of approximately 2.7 dBA over existing traffic noise levels.

Because of the elevation of SR 87 and the flyovers of aircraft at SJIA, noise mitigation measures to reduce noise levels for exterior areas to below 60 dBA L_{dn} would not be feasible. However, based on the current design plans, all balconies would front the interior courtyards. The common open space would be located in two interior landscaped courtyards between the three wings on the second floor. This design would provide 10 dBA to 20 dBA reduction in noise levels from combined traffic, railroad, and aircraft noise sources at these outdoor spaces compared to the facades directly fronting SR 87 and the railroad. Again, the Noise Element recognizes that full attainment of exterior noise standards may not be achievable in the environs of Mineta/San José International Airport and the Downtown Core Area. However, design measures must be incorporated into the project so that the interior noise level standards are achieved. Standard residential construction in northern California would provide 25 dBA exterior-to-interior noise reduction with windows closed and 15 dBA noise reduction with windows open. Therefore, mitigation would be required to meet the City's 45 dBA L_{dn} interior noise standard (i.e., 81 dBA – 25 dBA = 56 dBA).

These potential operational noise impacts have been described in the certified Brandenburg EIR. Modification of Mitigation Measure NOI-2, in accordance with the analysis performed for the Noise and Vibration Assessment Study and considering the most recent project design, would reduce this impact to a less-than-significant level. Therefore, to achieve compliance with the 45 dBA L_{dn} interior standards of the City of San José Noise Element and Title 24, the following multi-part mitigation measure would be required.

[64] Based on Caltrans traffic volume data, the Average Annual Daily Trips (AADT) was 64,000 in 1995, and was 99,000 AADT in 2009 for this portion of SR-87. This averages to be an annual average growth rate of 3.17 percent over the last 14 years.

Impact NOI-2: Whereas project-generated traffic noise would not represent a significant impact, the effect of existing and future traffic noise on project use would be significant. **(Significant)**

Mitigation Measures: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM NOI-2a: In the event that the proposed housing units are designed to include outdoor active uses, such as patios, backyards, or balconies, the following areas would require some form of sound attenuation feature in order to meet the City's short-range 60 dBA CNEL exterior noise standard.

- Within 77 feet of Terraine Street centerline for Parcels A, B, C, D, and G
- ~~Within 99 feet of Terraine Street centerline for Parcel J~~
- ~~Within 55 feet of San Pedro Street centerline for Parcels K, L1, and L2~~
- ~~Within 294 feet of Market Street centerline for Parcels F and H~~
- ~~Within 305 feet of Market Street centerline for Parcels L1 and L2~~
- ~~Within 277 feet of Julian Street centerline for Parcel G~~
- ~~Within 82 feet of Julian Street centerline for Parcels J, K, and N~~
- ~~Within 133 feet of Julian Street centerline for Parcels H and L1~~
- Within 1,214 feet of SR 87 centerline for Parcels A, C, G, J, and M

Standard residential construction in northern California would provide 25 dBA exterior-to-interior noise reduction with windows closed and 15 dBA noise reduction with windows open. Therefore, residential structures outside of the 70 dBA CNEL contour range would meet the 45 dBA interior noise standard without building facade upgrades. However, to ensure that windows can remain closed for prolonged periods of time, an air-conditioning system is required.

MM NOI-2b: All proposed residential buildings within the areas listed above would require air-conditioning systems to meet the City's short-range 60 dBA CNEL exterior noise standard.

MM NOI-2c: Development in the following areas that would experience traffic noise exceeding 70 dBA CNEL would require additional building façade upgrades, such as double-paned windows with a minimum sound transmission class (STC) rating of STC-30, which is higher than what the standard residential construction provides:

- ~~Within 68 feet of Market Street centerline for Parcels F and H~~
- ~~Within 70 feet of Market Street centerline for Parcels L1 and L2~~
- ~~Within 64 feet of Julian Street centerline for Parcel G~~
- Within 264 feet of SR 87 centerline for Parcels A, C, and G

Mitigation Measures: The proposed project would be required to implement the following additional mitigation measures to MM NOI-2:

MM NOI-2d: All proposed residential units of the project would require air-conditioning systems to ensure that windows can remain closed for prolonged periods.

MM NOI-2e: The following building facade upgrades would be required:

- Install windows and doors for the following façades with the indicated minimum Sound Transmission Class (STC) ratings:
  - Western façade: STC-45;
  - Northern façade: STC-42;
  - All other façades: STC-30;
- No glass doors shall be installed on the western or northern facades of the project building; and
- In addition, windows and doors shall be installed in an acoustically effective manner, forming an air-tight seal when in the closed position, with frames caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound filtration.[65]

Railroad Noise and Vibration Impacts. The Union Pacific Railroad line that borders the project site to the north is used mostly as a spur line and typically carries 2 to 3 trains per day with no trains at night. Based on reconnaissance conducted for preparation of the Noise and Vibration Assessment Study, freight trains travel at approximately 10 mph and do not sound warning horns in the immediate vicinity of the project site.

Based on the noise measurements taken at the project site, train noise levels averaged 78.6 dBA L_{eq} for each passby, which resulted in an average hourly L_{eq} of 60.8 dBA and a day-night average of 59 dBA L_{dn} as measured at 30 feet from the track centerline.

The combined traffic, railroad, and aircraft noise levels are presented under the traffic noise impact discussion above. These potential operational impacts from the proposed project have been described in the certified Brandenburg EIR. Implementation of Mitigation Measure NOI-2d and NOI-2e would reduce these combined transportation noise impacts to a less-than-significant level.

Rail line activity is also a known source of groundborne vibration. As documented in the Noise and Vibration Assessment Study, railroad induced ground-borne vibration levels at the building setback of 25 feet from the centerline of the railroad tracks was measured to be 60 VdB for a passing freight train. These are substantially lower than FTA's structural vibration impact criteria of 94 VdB for non-engineered timber and masonry buildings. In addition, using the adjustment methodologies of the FTA, the vibration levels in the podium level living spaces of the project would be approximately 54 Vdb, well below FTA's 80 VdB criteria for infrequent rail operation events. Structure-borne noise levels associated with freight train passings would be inaudible within the proposed project building. Therefore, ground-borne vibration and groundborne noise impacts resulting from railroad activity along this rail line would be less than significant.

Aircraft Noise Impacts. San José International Airport is located approximately 1½ miles northwest of the project site and operates from 5:00 a.m. to 12:00 midnight. Aircraft approach the airport from the south,

[65] Additional text for Mitigation Measure NOI-2 is underlined.

passing by the project site approximately 85 percent of the year, with the remaining 15 percent of flights taking off to the south. The project site is located outside of the existing and projected future 65 dBA CNEL noise contour of the airport as shown on the 2027 airport noise contour map.

The combined traffic, railroad, and aircraft noise levels are presented under the traffic noise impact discussion above. These potential operational impacts from the proposed project have been described in the certified Brandenburg EIR. Implementation of Mitigation Measures NOI-2d and NOI-2e, above, would reduce these combined transportation noise impacts to a less-than-significant level.

4.12.3 Conclusion

With implementation of the above mitigation measures, the proposed project would not result in any new or more significant noise impacts than those addressed in the Brandenburg EIR. **(No New Impact)**

4.13 POPULATION AND HOUSING

4.13.1 Setting

Development of the proposed project site was originally analyzed in the Brandenburg EIR. The current and future population and housing estimates and assumptions have not substantially changed since the certification of the Brandenburg EIR.

4.13.2 Environmental Checklist and Discussion of Impacts

Population and Housing						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☐	☒ 1,2	
Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐	☒ 1,2	
Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐	☒ 1,2	

The proposed project would provide 135 affordable housing units in the City of San José. The proposed project would increase housing and could increase the residential population in the City by up to 388 people (based on 2.88/attached unit). The additional housing and associated population increase would represent a very small percentage of the total City population and is well within the range of anticipated population growth forecast to occur on this site in the Brandenburg EIR. The project would help meet the demand for additional affordable housing in San José, consistent with the City's General Plan and Housing Element goals. Therefore, the proposed project would not result in substantial population growth and would result in beneficial socioeconomic impacts.

The project site is currently vacant and contains no temporary or other shelters or buildings onsite. As a result, no residents or housing would be displaced by implementation of the proposed project.

4.13.3 Conclusion

The proposed project would not result in any new population and housing impacts. **(No Impact)**

4.14 PUBLIC SERVICES

4.14.1 Setting

The description of existing public services that is provided in the Brandenburg EIR for police, fire, schools, libraries, and parks remains generally accurate. The closest fire station to the project site is Station No. 1, located at 225 North Market Street. Other fire stations in close proximity of the project area include Station No. 7, and Station No. 8, located at 800 Emory Street and 802 East Santa Clara Street, respectively. The San José Police Department provides police protection services to the City. The project site is located within the Central Division in District E, Beat 2.

The project site is within the San José Unified School District (SJUSD), which serves students from grades kindergarten to 12. According to the SJUSD, elementary and middle school residents from the proposed project area would attend Grant Elementary School (Grades K-5), located at 470 East Jackson Street and Herbert Hoover Middle School (Grades 6-8), located at 1635 Park Avenue. High School residents would attend Lincoln High School, located at 555 Dana Avenue.[66] As indicated in the Brandenburg EIR, the SJUSD student generation rate for multi-family residential development is 0.238 students per unit for kindergarten through 12th grade.[67]

Nearby neighborhood parks include the 3.2-acre Ryland Park, located approximately 0.4 mile northeast of the project site at Ryland Park Drive and North First Street and the 6.8-acre Saint James Park, located approximately 0.5 mile southeast of the project site at North Second Street and East Saint James Street. The Guadalupe River Park, located approximately 0.7 mile northwest of the project site is a 3-mile, 150-acre "ribbon" regional park and includes McEnery Park, Arena Green, and the Discovery Meadow. The linear park stretches from West Taylor Street to West San Carlos Street.[68]

Library services are provided by the San José Public Library System. Project residents would be served by the Dr. Martin Luther King, Jr. Main Library, located at 150 East San Fernando Street and the Joyce Ellington Branch Library, located at 491 East Empire Street.

4.14.1.1 San José General Plan

Various policies in the City's General Plan have been adopted that avoid or mitigate public services impacts resulting from planned development within the City. The City of San José has the following goals and policies related to the proposed project that would reduce public service impacts:

- *Level of Service Policy 2.* Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or by lowered service levels to accommodate the needs created by new growth. The City Council may provide a system whereby funds for capital and facility needs may be advanced and later repaid by the affected property owners.
- *Schools Policy 24*. Residential development should be approved only in conformance with the School Facility Availability Ordinance and City Council Policy. The City encourages school districts and developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures. These discussions should occur as early as possible in the project planning stage, preferably immediately preceding or following land acquisition.

[66] San José Unified School District, 2011. SJUSD School Finder. Website: www.schvision.com/schoolfinder2/SJUSD/ (accessed June2).

[67] Gonzales, Robert, 2011. Director, Student Assignment and Demographics. San José Unified School District. Personal communication with LSA Associates, Inc. June 16.

[68] San José, City of, 2011. Department of Parks, Recreation and Neighborhood Services. Parks Directory. Website: www.sjparks.org/parksdirectory.asp (accessed June 2).

- *Fire Hazards Policy 2*. All new development should be constructed at a minimum, to the fire safety standards contained in the San José Building Code.
- *Fire Hazards Policy 6.* New development should provide adequate access for emergency vehicles, particularly fire fighting equipment, as well as provide secure evacuation routes for the inhabitants of the area.

4.14.2 Environmental Checklist and Discussion of Impacts

Public Services						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☐	☐	☒	
Fire Protection?	☐	☐	☐	☐	☒ 1,3	
Police Protection?	☐	☐	☐	☐	☒ 1,3	
Schools?	☐	☐	☐	☐	☒ 1,2	
Parks?	☐	☐	☐	☐	☒ 1,2	
Other Public Facilities?	☐	☐	☐	☐	☒	1

4.14.2.1 Fire and Police Protection

The proposed project is anticipated to marginally increase demand for fire and police protection services in the City of San José. The approximately 388 additional residents[69] that would be generated by the proposed project would represent a small population increase that is not expected to compromise police response times or overall police service to the project site and surrounding areas. Given the project site is already served by the San José Fire and Police Departments, it is not anticipated the development of the proposed project would require the construction of additional fire or police facilities. The proposed project would enhance public safety in the area by enhancing the relationship of residential uses to the streets in the site, redeveloping a vacant parcel, and creating defensible space within the site.

In accordance with standard City practices, the Fire Department would review the design of the proposed project prior to issuance of building permits to ensure the incorporation into the design of adequate fire and life safety features.

The increased demand for fire and police protection services that would result from the implementation of the proposed project would not be substantial as to exceed planned staffing levels, facilities, or equipment. However, the Brandenburg EIR identified the increasing traffic congestion that the downtown area would face in the future could adversely affect the ability of both the fire and police departments to respond in a timely manner to emergency calls. Implementation of Mitigation Measures SVCS-1a and 1b from the Brandenburg EIR, would ensure that the potential public services impacts related to police and fire services would be reduced to a less-than-significant level:

[69] Assuming 2.88 residents per dwelling unit, the proposed 135-unit project would add 388 new residents.

Impact SVCS-1: The increasing traffic congestion that the downtown area will face in coming years could adversely affect the ability of both the Police Department and the Fire Department to respond in a timely manner to emergency calls. **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM SVCS-1a: The City shall continue to implement the following 2020 General Plan goals and policies that relate to public facilities and services:

- *Other Services Policy 18* – Fire service facilities should be located so that essential services can be most efficiently provided.
- *Fire Hazards Policy 2* – All new development should be constructed at a minimum, to the fire safety standards contained in the San José Building Code.
- *Fire Hazards Policy 3* – Anticipated fire response times and fire flow should be taken into consideration as part of the Development Review process.
- *Fire Hazards Policy 6* – New development should provide adequate access for emergency vehicles, particularly fire fighting equipment, as well as provide secure evacuation routes for the inhabitants of the area.

MM SVCS-1b: The City shall implement a system of signal light preemption by emergency vehicles along key emergency response travel routes so as to expedite emergency circulation through the Downtown Core Area.

4.14.2.2 Schools

Implementation of the proposed project would add 32 students that would attend schools in the SJUSD. This number of students would not result in substantial impacts to school services, nor would it require development of a new school. State law (Government Code Section 65996) identifies the payment of school impact fees as an acceptable method of offsetting a project's impact on school facilities.

In San José, developers can negotiate directly with the affected school district or make a payment of $2.97 per square foot of multi-family units (prior to the issuance of a building permit).[70] The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

The proposed project would increase the number of students attending public schools in the project area, but would mitigate its impact through compliance with state law regarding school mitigation. In accordance with Government Code 65996, the developer would be required to pay the statutory school impact fee to offset the increased demands on school facilities caused by the proposed project.

4.14.2.3 Parks

The proposed project would add 135 new residential units and would incrementally increase the demand for additional park space for its 388 new residents. However, there is substantial acreage of neighborhood and regional parks in close proximity to the project area. Neighborhood parks near the project vicinity include Ryland Park and Saint James Park. The nearby Guadalupe River Park includes McEnery Park, Arena Green, and the Discovery Meadow.

[70] Gonzales, Robert. 2011, op. cit.

The City of San José adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) under the San José Municipal Code, requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments.[71] Each new residential project is required to conform to the PDO and PIO. Based on the City's level of service standard for parks, the proposed project would require 1.17 acres,[72] which is a subset of the 12.02 acres identified in the Brandenburg EIR that would be required to serve the development. Because the 14,160 square feet of common open space proposed for the project (8,500 square feet for two interior courtyards and 5,660 square feet for the "living" roof area) is only available to building residents, the proposed project's common open space would not qualify as parkland..

The proposed project would be required to conform to the City's Park Impact Ordinance (PIO) and Parkland Dedication Ordinance (PDO). The proposed project, consistent with the PDO and PIO, could satisfy the parkland obligation in any of the following four ways: (1) dedication of land; (2) payment of in-lieu fees; (3) credit for improvement costs to parkland; and/or (4) credit for qualifying private amenities in the project (up to 50 percent of the obligation).

4.14.2.4 Other Public Facilities

Implementation of the proposed project would increase the use of existing libraries. In November 2000, a bond measure was passed to fund six new branch libraries. Since 2004, fifteen of the existing library branches were renovated. As of spring 2011, two new branch libraries, the Seven Trees Community Center and Branch Library and the Bascom Library and Community Center have been completed, while two additional new branch libraries, the Calabazas Branch Library and the Educational Park Branch Library, are currently undergoing construction. The proposed project would not require additional new library facilities, beyond those already planned.

4.14.3 Conclusion

The proposed project, with implementation of the above standard measures and mitigation measures, would not result in any new or more significant public services impacts than those addressed in the Brandenburg EIR**. (No New Impact)**

[71] San José, City of. Municipal Code Chapter 19.38.

[72] Assuming 2.88 persons per unit, the following formula for dedication of parkland as outlined in Municipal Code 19.38.310 was used: 0.003 acres x 135 dwelling units x 2.88 persons per dwelling unit.

4.15 RECREATION

4.15.1 Setting

Passive and active recreational activities occur at a number of neighborhood parks near the project vicinity including the 3.2-acre Ryland Park, located approximately 0.4 mile northeast of the project site at Ryland Park Drive and North First Street and the 6.8-acre Saint James Park, located approximately 0.5 mile southeast of the project site at North Second Street and East Saint James Street. The Guadalupe River Park, located approximately 0.7 mile northwest of the project site is a 3-mile, 150-acre "ribbon" regional park and includes McEnery Park, Arena Green, and the Discovery Meadow. The linear park stretches from West Taylor Street to West San Carlos Street.[73]

The proposed project features a community room and computer lounge on the second floor and 14,160 square feet of common open space in the building. The common open space includes 8,500 square feet of open space in two interior courtyards on the building's second floor and a 5,660 square foot "living" roof area, accessible to building residents. All of these areas would allow for passive recreational activities.

In addition, the proposed project would be subject to the City of San José Parkland Dedication Ordinance (PDO) (Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO). These ordinances require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project in the City is required to conform to both the PDO and PIO.

4.15.2 Environmental Checklist and Discussion of Impacts

Recreation						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Would the project 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?	☐	☐	☐	☐	☒ 1,2	
Does the project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	☐	☐	☐	☐	☒ 1,2	

Refer to Section 4.14.2.3, Parks. The proposed project would add 135 new residential units and would incrementally increase the demand for recreation space and activities for its 388 new residents.

The proposed project would construct private open space and recreational amenities for building residents that would not result in an adverse physical impact on the environment. Additionally, there is substantial acreage of neighborhood and regional parks within one mile of the project area, and these facilities would allow for recreational activities. The small increase in demand for recreational facilities and activities

[73] San José, City of, 2011. Department of Parks, Recreation and Neighborhood Services. Parks Directory. Website: www.sjparks.org/parksdirectory.asp (accessed June 2).

would not result in a significant adverse impact, and such use is not expected to be substantial enough to cause these facilities to deteriorate.

4.15.3 Conclusion

The proposed project would not result in new or more significant recreation impacts than those addressed in the certified Brandenburg EIR. **(No Impact)**

4.16 TRANSPORTATION

Hexagon Transportation Consultants, Inc. prepared a traffic impact analysis (TIA) for the Brandenburg EIR. The Brandenburg EIR described existing conditions (year 2002) and background traffic conditions (conditions that would exist just prior to completion of the proposed development, which includes traffic volumes from existing traffic counts plus traffic generated by other approved developments in the vicinity of the site). Transportation facilities within the project area have not been substantially modified since the certification of the Brandenburg EIR in June 2004, other than work on SR-87 and south of the Downtown area, to add HOV lanes and the opening of the Vasona Light Rail Line.

Intersections in the immediate vicinity of the project site that were analyzed in the Brandenburg EIR include:

- Terraine Street and Bassett Street (Existing Unsignalized)
- Terraine Street and Julian Street (Future)
- San Pedro Street and Bassett Street (Existing Unsignalized)

4.16.1 Setting

4.16.1.1 City of San José General Plan

Various policies in the City's General Plan have been adopted that avoid or mitigate transportation and traffic impacts resulting from planned development within the City. The City of San José has the following goals and policies related to the proposed project that would reduce transportation and traffic impacts:

- *Level of Service Policy 5.* The minimum overall performance of City streets during peak travel periods should be level of service "D".
    - In recognition of the City's Smart Growth strategies and interest in creating and maintaining a livable community, San José is planning a balanced, multi-modal transportation system. Livable streets that accommodate vehicular as well as appropriate pedestrian, bicycle, and transit facilities are an important component of this transportation system.
    - Development proposals should be reviewed for their measurable impacts on the level of service and should be required to provide appropriate mitigation measures if they have the potential to reduce the level of service to "E" or worse. These mitigation measures typically involve street improvements. When the mitigation for vehicular traffic compromises community livability by removing street trees, reducing front yards, or creating other neighborhood impacts, then improvements to transit, bicycle, or pedestrian facilities may be considered in combination with more appropriate street improvements to meet the level of service standard.
    - To strengthen the neighborhood preservation strategy and objectives of the Plan, the City Council may adopt a Council Policy which establishes alternate mitigation measures, including improvements to transit, bicycle, and/or pedestrian facilities, for projects whose required traffic mitigation would result in an unacceptable impact on an affected neighborhood or City street.
    - An "area development policy" may be adopted by the City Council to establish special traffic level of service standards for a specific geographic area which determines development impacts and mitigation measures. These policies may take other names or forms to accomplish the same purpose. Area development policies may be first considered only during the General Plan Annual Review and Amendment Process; however, the hearing on an area development policy may be continued after the Annual Review has been completed and the area development policy may thereafter be adopted or amended at a public meeting at any time during the year. The City Council has adopted three Area Development Policies for Evergreen, North San José, and Edenvale, and has established a Transportation Development Policy for the

US-101/Oakland/Mabury corridor. The US-101/Oakland/Mabury Transportation Development Policy serves the same purpose as an Area Development Policy.

- In recognition of the substantial non-traffic benefits of infill development, small infill projects may be exempted from traffic mitigation requirements.
- In recognition of the unique position of the Downtown Core Area as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, development within the Downtown Core Area Boundary is exempted from traffic mitigation requirements. Intersections within and on the boundary of this area are also exempted from the level of service "D" performance criteria.

- *Transportation Policy 8.* Vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.
- *Transportation Policy 11.* The City should cooperate with the Santa Clara Valley Transportation Authority, the California Department of Transportation and other transportation agencies to achieve the following objectives for the County's public transit system:
  - Provide all segments of the City's population, including people with disabilities, elderly, youth and people who are economically disadvantaged, with adequate access to public transit. Public transit should be designed to be an attractive, convenient, dependable and safe alternative to the automobile.
  - Enhance transit service in major commute corridors, and provide convenient transfers between public transit systems and other modes of travel.
  - Develop an efficient and attractive public transit system which meets the travel demand at major activity centers, such as the Downtown, major employment centers, major regional commercial centers, government offices, and colleges and universities.
  - New development should be required to install indented curbs for bus pullouts, bus shelters and other transit-related public improvements, where appropriate.
- *Transportation Policy 17.* Pedestrian travel should be encouraged as a mode of movement between residential and non-residential areas throughout the City and in activity areas such as schools, parks, transit stations, and in urban areas, particularly the Downtown Core and Frame Areas and neighborhood business districts by providing pedestrian facilities that are pleasant, safe, accessible to people with disabilities, and convenient.
- *Transportation Policy 33.* Adequate off-street parking should be required in conjunction with all future developments. The adequacy and appropriateness of parking requirements in the Zoning Code should be periodically re-evaluated.

In addition to the policies of the General Plan, the proposed project would be required to comply with the San José Residential Design Guidelines.

4.16.1.2 Site Circulation, Access, and Parking

Regional access to the project site is provided by Interstate 280, 880, and SR-87. Local access to the project vicinity is provided by Market Street, Julian Street, and North First Street. Site access to the project site is currently provided by Bassett and Terraine Streets, located on the southern and eastern portions of the project site, respectively. The proposed project would include a podium parking garage where vehicular ingress and egress to the parking garage would be provided at Bassett Street. The garage would include 52 parking spaces, 3 of which are American Disabilities Act (ADA) accessible. A total of 34 secure bicycle parking spaces would be provided throughout the residential building, 16 of which are located in the parking garage and 18 spaces on the second floor.

Primary pedestrian access to the building would be provided at the building entrance on Bassett Street (see Figure 4). Four additional stairways would be provided on the Bassett Street elevation. Existing sidewalks along Bassett Street would remain, but may be improved to more fully meet the City's standards.

4.16.1.3 Existing Transit, Bicycle and Pedestrian Facilities

According to the City of San José Transportation Department Bikeway Map, there are several bikeways in the vicinity of the project site. Class I bike paths exist on North 4th Street between Jackson and East Julian Street, and along the Guadalupe River Trail. Class II bike lanes exist on East San Fernando Street from the Guadalupe River Trail to North 10th Street, and along North 10th Street up to East Taylor Street. Pedestrian facilities in the project area consist primarily of sidewalks along local roadways. Sidewalks are present along the southern portion of the project site's Bassett Street frontage.

The Valley Transportation Authority (VTA) provides existing transit service. The project area is served by local, community, express, and limited stop bus routes. Local bus routes include Lines 66, 72, 73, and 82. Line 65 serves as a community bus route, and Lines 181 and 304 serve as express and limited stop bus routes, respectively. The St. James Light Rail Transit (LRT) station, located on First Street just south of St. James Street and 0.6 mile southeast of the project site, is the one VTA LRT station within the project vicinity.

4.16.1.4 Background Conditions

The purpose of the traffic analysis prepared for the Brandenburg EIR was to identify the potential traffic impacts of the Brandenburg Mixed-Use project area, according to the standards and methodologies of the City of San José and the Santa Clara Valley Transportation Authority (VTA). The VTA administers the County Congestion Management Program (CMP). The proposed project area is located within the Downtown Core (defined by the area formed by I-280, SR-87, Bassett Street, Julian Street, and fourth Avenue), which is exempt from the City of San José level of service policy.

4.16.2 Environmental Checklist and Discussion of Impacts

Transportation/Traffic						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	☐ 1,3	
Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	☐ 1,3	
Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	1

Transportation/Traffic *Continued*						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐	☒	1
Result in inadequate emergency access?	☐	☐	☐	☐	☒	1
Conflict with adopted polices, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	☐ 1,2,3	

4.16.2.1 Trip Generation

The traffic generated by the proposed project was estimated using rates from the City of San José *Interim Guidelines for Traffic Impact Analysis for Land Developments*. Consistent with the Brandenburg EIR traffic analysis, a 25 percent transit/walk reduction was applied to the residential trip generation, due to its Downtown location and proximity to transit/LRT stations. As shown in Table 4, the proposed project would generate a total of 61 net project trips during both the AM and the PM peak hours, which is a subset of the 675 net project trips identified in the Brandenburg EIR. The proposed project would produce 21 inbound trips and 40 outbound trips during the AM peak hour and 40 inbound and 21 outbound trips during the PM peak hour. All respective inbound trips and outbound trips during the AM and PM peak hours represent approximately 9 percent of the respective inbound and outbound trips during the AM and PM peak hours identified in the Brandenburg EIR.

Table 4: Project Trip Generation Estimates

				AM Peak Hour			**PM Peak Hour**		
Land Use	**Rate**	**Size**	**ADT**[a]	**Total**	**In**	**Out**	**Total**	**In**	**Out**
Apartments	6.0	135 units	810	81	28	53	81	53	28
Transit/Walk Reduction[b]			-202 -20		-7	-13 -20	-13		-7
Total			**608**	**61**	**21**	**40**	**61**	**40**	**21**

[a] Average Daily Trips

[b] Consistent with the Brandenburg EIR traffic analysis, a transit/walk reduction was taken due to the downtown location of the project of 25 percent.

Source: LSA Associates, Inc. 2011

4.16.2.2 Intersection and Freeway Level of Service Impacts

The traffic analysis prepared for the Brandenburg EIR was based on peak-hour levels of service for signalized intersections and freeway segments for the Brandenburg Mixed-Use project area. A peak-hour signal warrant analysis was also performed on seven existing and future unsignalized intersections within the Mixed-Use project area to determine whether signalization would be justified on the basis of project peak-hour volume.

The Brandenburg EIR identified two significant and unavoidable transportation impacts at project build-out that were related to unacceptable levels of service at the intersections of Coleman Avenue and Hedding Street and Coleman Avenue and Taylor Street (Impact TRANS-1), and project traffic impacts

along two freeway segments on SR-87 (Impact TRANS-3). The two freeway segments identified were Julian to I-280 (southbound PM) and Julian to Coleman (northbound AM).

Impact TRANS-1: The intersections of Coleman Avenue and Hedding Street and Coleman Avenue and Taylor Street would continue to experience unacceptable levels of service. **(Significant)**

Impact TRANS-3: State Route 87 would experience a significant impact from project traffic along two of the analyzed segments. **(Significant)**

The intersections of Coleman Avenue and Hedding Street and Coleman Avenue and Taylor Street were identified to operate in 2003 and in the future, without the Brandenburg Mixed-Use project, at a level of service (LOS) F during at least one of the peak hours. Mitigation Measure TRANS-1 from the Brandenburg EIR indicated the widening of Coleman Avenue to six lanes, south of I-880 was beyond the financial capability of the Brandenburg Mixed-Use project. Mitigation Measure TRANS-3 indicated the widening of SR-87 was not considered feasible due to significant right-of-way acquisition. Additional analysis also showed that even after the completion of the SR-87 widening project, the same segments on SR-87 identified in Impact TRANS-3, would continue to operate at unacceptable levels of service under the Brandenburg Mixed-Use project conditions.

As described in 4.16.1.4, Background Conditions, the project site is located within the Downtown Core boundary, which is exempt from the City's level of service (LOS) policy (LOS D or better) and, as a result, mitigation measures are not required for impacted intersections.

While the proposed project would not result in new intersection LOS impacts, the proposed project would contribute to an increase in traffic in the project area and the significant and unavoidable intersection LOS impacts identified in the Brandenburg EIR. The proposed project would also increase traffic on regional roadway segments and contribute to the significant and unavoidable impact identified in the Brandenburg EIR. However, because the proposed project is a subset of the Brandenburg Mixed-Use project, the proposed project would not result in any new or significant impacts to intersection LOS than those addressed the Brandenburg EIR.

The Brandenburg EIR also identified that a peak-hour volume warrant would be satisfied at two of the following unsignalized intersections, Terraine and Devine Streets, and Market and Devine Streets. Implementation of Mitigation Measure TRANS-2 from the Brandenburg EIR would ensure that a less-than-significant impact to peak-hour traffic volume.

Impact TRANS-2: The peak-hour volume warrant would be satisfied at two of the unsignalized intersections (Terraine Street and Devine Street, and Market Street and Devine Street). **(Significant)**

Mitigation Measure: The following mitigation measure is identified as part of the certified Brandenburg EIR and proposed by the project:

MM-TRANS-2: At the time that a specific development project is proposed, the City shall ensure that signals are constructed at Terraine Street and Devine Street, and Market Street and Devine Street.

4.16.3 Conclusion

The proposed project, with implementation of the above standard measure and mitigation measures, would not result in new or more significant impacts to intersection LOS and the regional transportation system than those addressed in the certified Brandenburg EIR. **(No New Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

Water supply, sanitary sewer and wastewater treatment, storm drainage, solid waste, natural gas, and electricity services and facilities are described in the Brandenburg EIR. These services have not substantially changed since the certification of the Brandenburg EIR.

Water service to the project is supplied by the San José Water Company. There are two water mains, a 12-inch and an 18-inch main, located on Bassett Street that would serve the project site. The City of San José owns and maintains the wastewater collection system in north San José. There is an existing 27-inch sanitary sewer main pipeline on Bassett Street. Storm drainage line are also provided and maintained by the City of San José. The project site would drain to the Guadalupe River through a 42-inch storm drainage line on Bassett Street. Development of the proposed project would create 22,330 square feet of impervious surface area, covering approximately 70.5 percent of the project site.[74] Refer to Section 4.9 Hydrology and Water Quality, for additional discussion regarding the hydrology and drainage at the project site. Solid waste and recycling collection services, including yard waste recycling are provided to multi-family residences by Green Team.

The City promotes energy-efficient design through encouraging project applicants to incorporate green building principles into the design and construction of projects and by requiring that applicants submit the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) checklist showing potential credits that could be attained by the project. The project is a LEED for Homes Mid-Rise Pilot registered development and the project applicant is pursuing LEED Platinum certification from the USGBC.

[74] Carroll Engineers, 2010. Storm Water Control Plans, Upper Levels, October 28. This calculation assumes 50 percent pervious for green roof and pervious pavement.

4.17.2 Environmental Checklist and Discussion of Impacts

Utilities and Service Systems						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	☐ 1,2,3	
Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐ 1,2,3	
Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐ 1,2,3	
Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐ 1,2,3	
Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐ 1,2,3	
Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐ 1,2,3	
Comply with federal, State, and local statutes and regulations related to solid waste?	☐	☐	☐	☒	☐ 1,2,3	

4.17.2.1 Regional Water Quality Control Board

Wastewater generated by the proposed project would be accommodated by existing wastewater infrastructure on Bassett Street. The proposed project would connect to the existing facilities and it is anticipated that these pipelines would have sufficient wastewater capacity to support project wastewater flows.

Development of the proposed project would not increase wastewater generation beyond what was considered in the Brandenburg EIR and therefore would not exceed the wastewater treatment standards of the San Francisco Bay Regional Water Quality Board. As stated in the Brandenburg EIR, the developer would be responsible for construction of connections to existing wastewater infrastructure.

4.17.2.2 Water or Wastewater Facilities

The San José Water Company provides services to the project area from the Santa Clara Valley Water District's (SCVWD) three water treatment plants. Connection to serve the proposed project exists on Bassett Street. Because the water lines would be connected to a pre-existing network, they would not be considered as "major" water lines, resulting in a less-than-significant impact on water line facilities.

Development of the proposed project would not significantly increase water demand beyond what was considered in the Brandenburg EIR. Fully occupied, the Brandenburg EIR identified that the Brandenburg Mixed-Use project site would increase the demand for potable water by approximately 225,000 gallons per day (gpd).[75] The proposed project would increase the demand for potable water by approximately 20,250 gpd. The estimated water usage generated from the proposed project represents 9 percent of the Brandenburg Mixed-Use project site's total estimated water demand.

The San José/Santa Clara Water Pollution Control Plant (Plant) provides wastewater treatment for the project site. The Plant has a treatment capacity of 167 million gallon per day (mgd).[76] Development of the proposed project would not significantly increase wastewater generation beyond what was considered in the Brandenburg EIR. The Brandenburg EIR identified that the Brandenburg Mixed-Use project site would generate a wastewater flow of 191,250 gpd for residential units.[77] The proposed project would generate approximately 17,213 gpd of wastewater, or 9 percent of the Brandenburg Mixed-Use project site's total estimated wastewater generation.

The proposed project would not require or result in the construction of new water or wastewater treatment facilities or the expansion of existing facilities, the construction of which could cause significant environmental effects.

4.17.2.3 Stormwater Drainage Facilities

The proposed project would result in a 70.5 percent increase in impervious surfaces on the site (refer to Section 4.9 Hydrology and Water Quality). With construction of an on-site storm drainage collection system including stormwater treatment BMPs , the proposed project would not result in any significant impacts to the storm drainage collection system in the project area.

4.17.2.4 Water Supply

As discussed in Section 4.16.2.2, additional water supplies to serve the proposed project would be provided by the San José Water Company. Based on the Brandenburg EIR, the increased water demand of the Brandenburg Mixed-Use project site would be accommodated by the City's existing water supply. Therefore, the proposed project would not result in a substantial alteration to the existing water supply system and no new or expanded entitlements would be required.

4.17.2.5 Solid Waste

Implementation of the proposed project would result in a net increase in solid waste generated from the site. Based on conservative calculations undertaken for the Brandenburg EIR, solid waste generated by the proposed project would be approximately 729 pounds per day and 81 pounds per day of recyclable materials would be collected.[78] Undoubtedly, the proportion of solid waste that would be recycled has increased substantially in the ensuing years. The Brandenburg EIR concluded there is sufficient capacity in the existing solid waste disposal facilities serving San José to accommodate waste generated by the development of the Brandenburg Mixed-Use site, which included the project site. As a result, implementation of the proposed project would not result in any new or more significant impacts to solid waste collection and disposal than were previously identified in the Brandenburg EIR.

[75] The Brandenburg EIR assumed a water usage rate of 150 gpd per dwelling unit for residential uses.

[76] San José, City of, 2011. Environmental Services: San José/Santa Clara Water Pollution Control Plant. Website: www.sanJoséca.gov/esd/wastewater/water-pollution-control-plant.asp (accessed May 28).

[77] The Brandenburg EIR assumes a wastewater generation rate that is approximately 85 percent of potable water demand.

[78] The Brandenburg EIR assumes a solid waste generation rate of 5.4 pounds per day per dwelling unit and a recycling estimated based on 0.6 pounds per day per dwelling unit.

4.17.3 Conclusion

The proposed project is not anticipated to exceed the capacity of existing utility and infrastructure systems. The proposed project would not result in new or more significant impacts to utilities and service systems than those addressed in the certified Brandenburg EIR. **(No New Impact)**

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

Mandatory Findings of Significance						
Issues	**New Potentially Significant Impact**	**New Less Than Significant With Mitigation Incorporated**	**New Less Than Significant Impact**	**Same Impact as "Approved Project"**	**Less Impact than "Approved Project"**	**Information Source(s)/ Discussion Location**
Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐	1, pp.17 to 96
Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	☐	☒	☐	1, pp.17 to 96
Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐	1, pp.17 to 96

The Brandenburg EIR evaluated the impacts of a group of related actions, including amendments to San José's General Plan, rezoning, and associated land use permits, appropriate acquisition and assembly of property, street abandonment and improvements. The development of approximately 60,000 square feet of commercial uses and approximately 1,500 residential units was also proposed for the sites. The proposed project would add a six-story residential building (including five stories of residential uses and the on-grade parking garage) with 135 residential units within the project area evaluated in the Brandenburg EIR.

The proposed development of the North San Pedro Apartments Project was anticipated and is within the development envelope analyzed in the Brandenburg EIR. With implementation of the standard measures and mitigation measures included in the project and described in this Addendum/Initial Study, the proposed project would not result in new or more significant environmental impacts than those addressed in the certified Brandenburg EIR.

4.19 CHECKLIST SOURCES

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site, surrounding conditions, and review of the project plans.
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17. Edward L. Pack Associates, Inc. 2010. Noise and Vibration Assessment Study for the Planned "North San Pedro Apartments" Multi-Family Development, Bassett Street. Sam José. September 2.
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