Draft
Environmental Impact Report

Sun Garden Redevelopment Project

(File No: GP10-07-101/PDC10-026)

City of San José

March 2011

PREFACE

The document has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA). The purpose of this Environmental Impact Report (EIR) is to inform decision makers and the general public of the environmental effects of the proposed project.

This document provides environmental review appropriate for the approval of the proposed Sun Garden Redevelopment Project in accordance with CEQA Guidelines Sections 15121, 15145, and 15151.

Purpose of the EIR

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

> **§15121(a). Informational Document**. An EIR is an informational document, which will inform public agency decision makers, and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information that may be presented to the agency.
>
> **§15145. Speculation.** If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.
>
> **§15151. Standards for Adequacy of an EIR**. An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

In accordance with Section 15082 of the CEQA Guidelines, a Notice of Preparation (NOP) was circulated to the public and responsible agencies for input regarding the analysis in this EIR. This EIR addresses those issues which were raised by the public and responsible agencies in response to the NOP. The NOP and copies of the comments letters received are provided in Appendix F of this EIR.

This EIR is available for public review in the Department of Planning, Building and Code Enforcement, 200 E. Santa Clara Street, 3rd Floor, San José, California, on weekdays during normal business hours and on the City's website at: www.sanjose.ca.gov/planning/eir/EIR.asp

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The project proposes to demolish the three existing buildings on-site and develop a 257,269 square foot retail center.

The following is a brief summary of significant impacts and mitigation measures addressed within the body of this EIR. The complete project description and discusion of impacts and mitigation measures can be found in the Sections 2.0 and 4.0 of this EIR, respectively.

Singificant Impacts	Mitigation Measures
	Hydrology and Water Quality
Construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that would temporarily contaminate runoff from the site.	1) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains. 2) Earthmoving or other dust-producing activities shall be suspended during periods of high winds. 3) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary. 4) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered. 5) All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard. 6) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers). 7) Vegetation in disturbed areas shall be replanted as quickly as possible. 8) All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City. 9) A Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB mitigation. 10) The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions. 11) When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site. **Less Than Significant with Mitigation**

Singificant Impacts	Mitigation Measures
	Vegetation and Wildlife
Construction activities could result in the abandonment of active raptor nests or destruction of other migratory bird's nests.	Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February through August. If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet for raptors and 50-100 feet for other birds, to ensure that raptor or migratory bird nests will not be disturbed during project construction.
Implementation of the proposed project will result in the loss of 28 trees on the project site.	All trees that are to be removed shall be replaced at ratios determined by the City (see Table 3 in Section 4.5.4.3 for replacement ratios). The project proponent will prepare the final landscape plan and submit it the Director of Planning, Building and Code Enforcement for approval prior to issuance of a Planned Development permit.
Construction of the proposed project could damage the existing street trees which are proposed to be retained.	1) The applicant shall retail a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection. 2) Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be six-foot chain link or equivalent as approved by the consulting arborist. Fences will remain in place until all grading and construction is complete. 3) Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arborists. 4) A certified arborist will establish a tree protection zone for each of the street trees prior to start of construction. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modification to the tree

Singificant Impacts	Mitigation Measures
	Vegetation and Wildlife *Continued*
Continued from Previous Page	protection zone must be approved and monitored by the consulting arborist. 5) Any root pruning or canopy pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist. 6) Any additional tree pruning needed for clearance during construction must be performed or supervised by the consulting arborist and not by construction personnel. 7) Supplemental irrigation shall be applied as determined by the consulting arborist. 8) If injury should occur to any tree during construction, work will stop in the area around the tree and the damage shall be evaluated by the consulting arborist so that appropriate treatments can be applied. 9) No materials or liquids of any kind can be dumped or stored within the designated tree protection zones. 10) As trees withdraw water from the soil, expansive soils may shrink within the root area. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. **Less Than Significant with Mitigation**
	Hazardous Materials
Redevelopment of the project site could expose construction workers to residual contamination in the soil from previous land uses. Development of the project site could expose known arsenic contaminated soil and undocumented contamination.	A Site Management Plan (SMP) and a Health and Safety Plan (HSP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include but are not limited to: o site control procedures to control the flow of personnel, vehicles, and materials in and out of the site, o measures to minimize dust generation, stormwater runoff, and tracking of soil off-site as well as to reduce the possibility of the creation of preferential pathways for chemicals of potential concern detected in groundwater beneath the site, o geotechnical recommendations to excavate and re-compact loose fill that may have been placed into the UST excavations. If pockets of suspected contaminated soil are encountered in these areas, protocols will be provided to segregate "clean" soil from contaminated soil, o protocols for dewatering (if required), o protocols for conducting earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected. Worker training requirements, health and safety measures, and soil handling procedures will be described, o protocols for addressing buried structures, wells, debris, or unidentified areas of impacted soil encountered during site development activities,

Significant Impact	Mitigation Measures
	Hazardous Materials *Continued*
Continued from Previous Page	○ protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse of the soil can be determined. ○ Methods to monitor excavations and trenches for the presence of petroleum hydrocarbon vapors, ○ Methods to evaluate and, if necessary, mitigate for vapor intrusion of petroleum hydrocarbons into proposed structures near the former service station area at 1600 Monterey Road, ○ Procedures for handling and mitigating (i.e., capping on-site or off-site disposal) of impacted soil identified along the eastern and southern railroad tracks, ○ Land use covenants and site operation and maintenance protocols to minimize the possibility of future disturbance and exposure of remaining residual contaminants. Prior to issuance of grading permits, a copy of the SMP and HSP will be provided to the appropriate regulatory agencies including DTSC, the Santa Clara County Environmental Health Department, and the Director of the City's Environmental Services Department for review and approval. **Less Than Significant with Mitigation**
	Cultural Resources
Approval of the proposed General Plan amendment and implementation of the proposed project could result in the disturbance of previously unknown prehistoric or historic artifacts and/or human remains.	1) A qualified archaeologist will be on-site to monitor the initial excavation of native soil once all pavement and engineered soil is removed from the project site. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required. 2) In the event that prehistoric or historic resources are encountered during monitoring of the excavation and/or grading of the site, all activity within a 150-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting investigative procedures and any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement. 3) In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are

Significant Impact	Mitigation Measures
	Cultural Resources *Continued*
Continued from Previous Page	determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines. **Less than Significant with Mitigation**
	Air Quality
Construction activity emissions associated with painting operations would have a significant air quality impact.	The painting phase of construction will occur over a minimum of three months or at least 20 percent of all building materials that would normally be painted would use pre-coated or colored materials. **Less Than Significant with Mitigation**
Construction activities will result in significant, temporary dust generation	1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day or apply (non-toxic) soil stabilizers. 2) All haul trucks transporting soil, sand, or other loose material shall be covered or required to maintain at least two feet for freeboard. 3) Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; 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. 4) Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably 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. 5) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 6) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). 7) Enclose, cover, water at least twice daily, apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site. 8) All vehicle speeds on unpaved roads shall be limited to 15 mph. 9) Install sandbags or other erosion control measures to prevent silt runoff to public roadways. 10) Replant vegetation in disturbed areas as quickly as possible. 11) Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site. 12) Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas. 13) Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph. 14) Limit the

Significant Impact	Mitigation Measures
	Air Quality *Continued*
Continued from Previous Page	area subject to excavation grading, and other construction activity at any one time. 15) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 16) 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. 17) 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. 18) Post a publicly visible sign with the telephone number and name of construction contact person to report complaints to the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **Less Than Significant with Mitigation**
	Greenhouse Gas Emissions
The project will exceed the BAAQMD thresholds for GHG emissions and will generate emissions at levels which are considered to have a significant cumulative impact on the environment.	1) Bicycle amenities will be provided for the project, including one or more of the following: secure bicycle parking for retail employees, bicycle racks for retail customers, and bike lane connections to the site. 2) Pedestrian facilities will include easy access and signage to bus stops and roadways that serve the major site uses (e.g. retail and office uses). 3) Project site employers may be required to promote transit use by providing transit information and incentives to employees. 4) Provide exterior electrical outlets to encourage use of electrical landscape. 5) Provide 110- and 220-volt electrical outlets at loading docks for trucks with refrigeration units. 6) Prohibit idling of trucks at loading docks for more than five minutes per State law and include signage indicating such a prohibition. 7) Implement a landscape plan that provides drought tolerant shade trees along pedestrian pathways. 8) Install programmable thermostat and lighting timers that maximizing and maintaining energy-efficient heating and cooling systems. 9) During final design, the applicant shall develop Green Building standards that would reduce energy-related GHG emissions beyond 20 percent from those that would occur under current Title 24 Building Code requirements. The applicant shall present these to the City prior the issuance of a building permit. **Significant Unavoidable Impact**

Significant Impact	Mitigation Measures
	Noise
Construction of the proposed project will temporarily increase ambient noise levels at nearby sensitive land uses.	1) Construction will be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. 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. 2) Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9:00 am and 5:00 pm. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building and Code Enforcement, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer. 3) The contractor shall use "new technology" power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engine driven equipment shall be equiped with intake and exhaust mufflers which are in good condition and appropriate for the equipment. 4) 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. 5) Utilize "quiet" air compressors and other stationary noise sources where technology exists. 6) Unnecessary idling of internal combustion engines shall be prohibited. 7) The contractor shall prepare a detailed construction plan, to be approved by the Director of Planning, Building and Code Enforcement, identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. 8) Designate a "noise disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site. **Less Than Signficiant with Mitigation**

Cumulative Impacts

The proposed project will result in significant cumulative Global Climate Change impacts due to the emissions of greenhouse gases. Please see Section 6.0 of this EIR for a complete discussion of cumulative impacts.

Summary of Alternatives to the Proposed Project

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which "would feasibly attain the most basic objectives of the project but avoid or substantially lessen many of the significant environmental effects of the project."

Below is a summary of the project alternatives. A full analysis of the project alternatives is provided in Section 7.0 of this EIR.

No Project Alternative

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services." Since the project site is currently developed with industrial/commercial development, the alternative to the City approving the currently proposed project would be to maintain the site as is. If the project site were to remain as is there would be no new impacts. All the assumed traffic of those buildings is already on the roads so air pollutants associated with vehicle trips to and from those buildings are already accounted for in the CAP.

The "No Project" alternative would not, however, allow for new development to occur on the northern portion of the project site. Any development proposed on the vacant portion of the project site would require environmental review and a discretionary action by the City. As a result, the majority of the project site would remain underutilized and provide no benefit to the City or its residents.

A full analysis of this alternative is provided in Section 7.0 of this EIR.

REDUCED DENSITY ALTERNATIVE

The project site is currently designated *General Commercial, Combined Industrial/Commercial,* and *Heavy Industrial* and is developed with three industrial/commercial buildings. In an effort to avoid the significant impacts due to greenhouse gas emissions that would result from the proposed project but still provide a new retail center, this alternative proposes a smaller, reduced density development.

Under the reduced density alternative, the project would still propose a General Plan amendment to *Combined Industrial/Commercial* and PD rezoning. The project would still be developed as a low-rise commercial/retail center and would still include the sustainable building designs listed in the project description. This alternative would, however, only propose 210,630 square feet of commercial/retail space, a reduction of approximately 46,666 square feet compared to the proposed project. The reduced density alternative would also demolish all three buildings on the project site. Site access would be the same as the proposed project with five driveways on Monterey Road, including a new signalized

intersection at Cottage Grove Avenue, and one driveway on E. Alma Avenue. The proposed site plan for the reduced density alternative is shown on Figure 8.

The reduced density alternative would provide a total of 1,108 parking spaces on-site. The parking required for the site would be 796 spaces based on the City's zoning ordinance requirements (Chapter 20.90, Table 20-190, Neighborhood Shopping Center over 100,000 square feet) of one space per 225 square feet of floor area[1]. As a result, the reduced density alternative would exceed the City's parking requirement by over 300 spaces.

While vehicular air pollutant emissions are reduced proportionately with reductions in project size and vehicle trip generation, the reduction in square footage would not be sufficient to reduce the identified significant unavoidable greenhouse gas emissions impacts to a less than significant level. The BAAQMD Criteria Pollutant Screening Table indicates that commercial development less than 19,000 square feet would not have a greenhouse gas emissions impact. Based on this threshold, the proposed project would need to be reduced by approximately 238,296 square feet or nearly 93 percent to reduce greenhouse gas emissions to a less than significant level. Such a reduction would be impractical and an inefficient use of the property.

All other identified impacts including vegetation & wildlife, cultural resources, hazards & hazardous materials, hydrology & water quality, noise, and air quality would be the same or incrementally less than the impacts of the proposed project. Mitigation already identified in this EIR would reduce these impacts under this alternative to a less than significant level.

The reduced density alternative would meet nearly all of the objectives of the proposed project.

A full analysis of this alternative is provided in Section 7.0 of this EIR.

Areas of Known Controversy

Issues raised by residents of San Jose included concerns related to increased traffic.

[1] Chapter 20.90 of the City's zoning ordinance defines floor area as 85 percent of the total gross floor area. Therefore, the parking requirement is based on a total floor area of 179,036 square feet.

1.1 OVERVIEW

The Sun Garden Cannery, founded in the late 1930's, operated on 10-acres in the northern portion of the project site until it was closed in 1996. On February 8, 2002, the buildings were heavily damaged by fire and subsequently approved for demolition. The only building that remains from the Sun Garden Cannery complex is a single-family house that was moved to the project site in the 1960's and converted to an office. Two additional buildings, a restaurant and a large warehouse, occupy the remainder of the site.

The project site is currently designated *General Commercial* (along the Monterey Road frontage) and *Heavy Industrial* (the remainder of the site) under the City of San José's adopted 2020 General Plan and is zoned *LI – Light Industrial* (along the Monterey Road frontage) and *HI – Heavy Industrial* (the remainder of the site). The current General Plan *Heavy Industrial* designation is intended for industrial uses with hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. The proposed project does not conform to the existing *Heavy Industrial* land use designation due to the proposed commercial/retail land uses. Therefore, the project proposes a General Plan Amendment to *Combined Industrial/Commercial* and rezoning to CG(PD) Planned Development Zoning District to allow for the eventual demolition of the three existing structures on-site and the construction of up to 257,296 square feet of new commercial/retail development.

This Environmental Impact Report (EIR) has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) and the City of San José. The purpose of this EIR is to provide objective information regarding the environmental consequences of the proposed project to the decision makers who will be reviewing and considering the project.

1.2 PROJECT LOCATION

The 19.75-acre project site is comprised of eight parcels (APNs 477-07-001, -004, -005, -006, -007, -013, and -016, and a portion of 477-08-023) located on the east side of Monterey Road, southeast of the Monterey Road/E. Alma Avenue intersection in the City of San José. (see Figures 1 and 2)

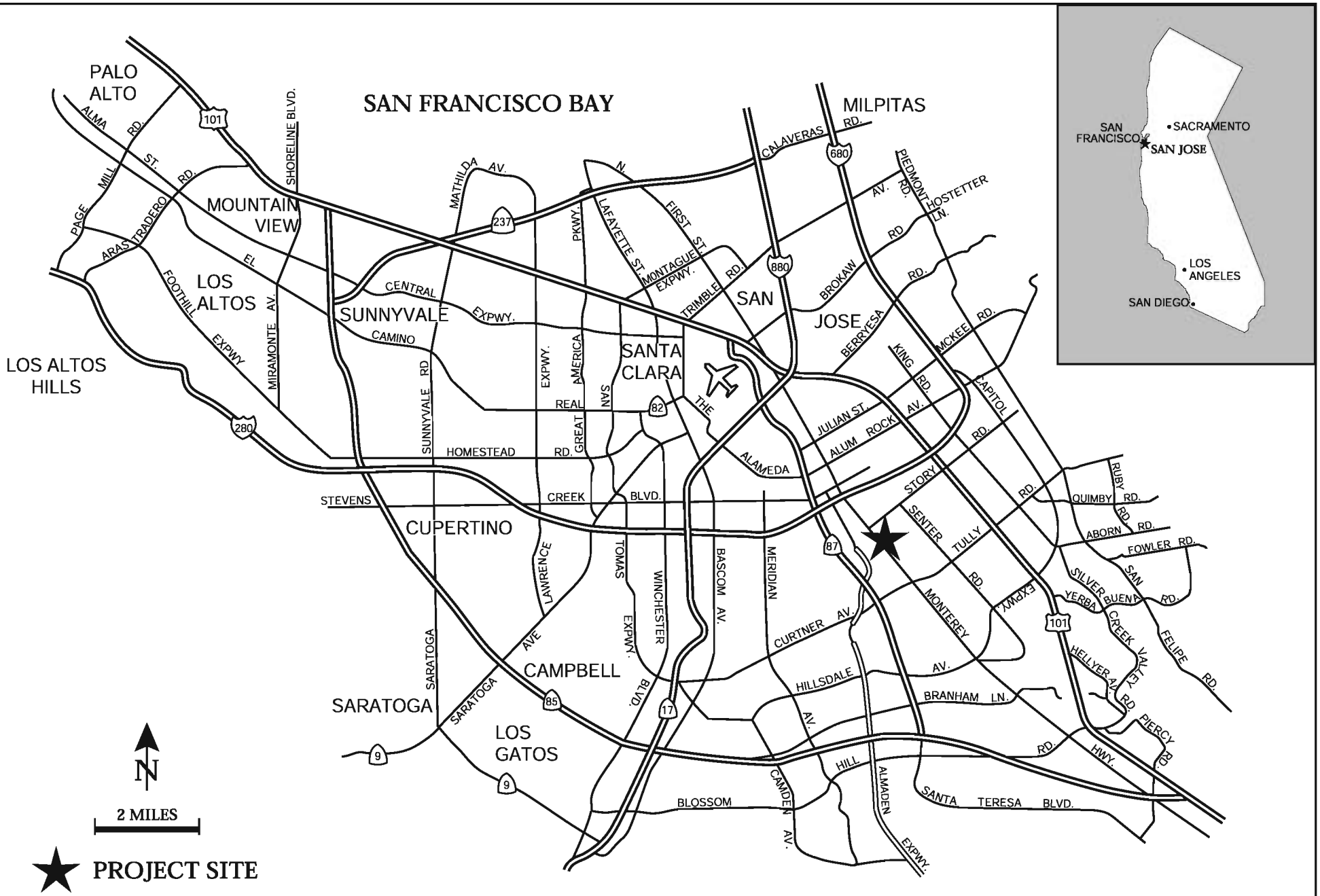
1.3 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project.

The stated objectives of the project proponent are to:

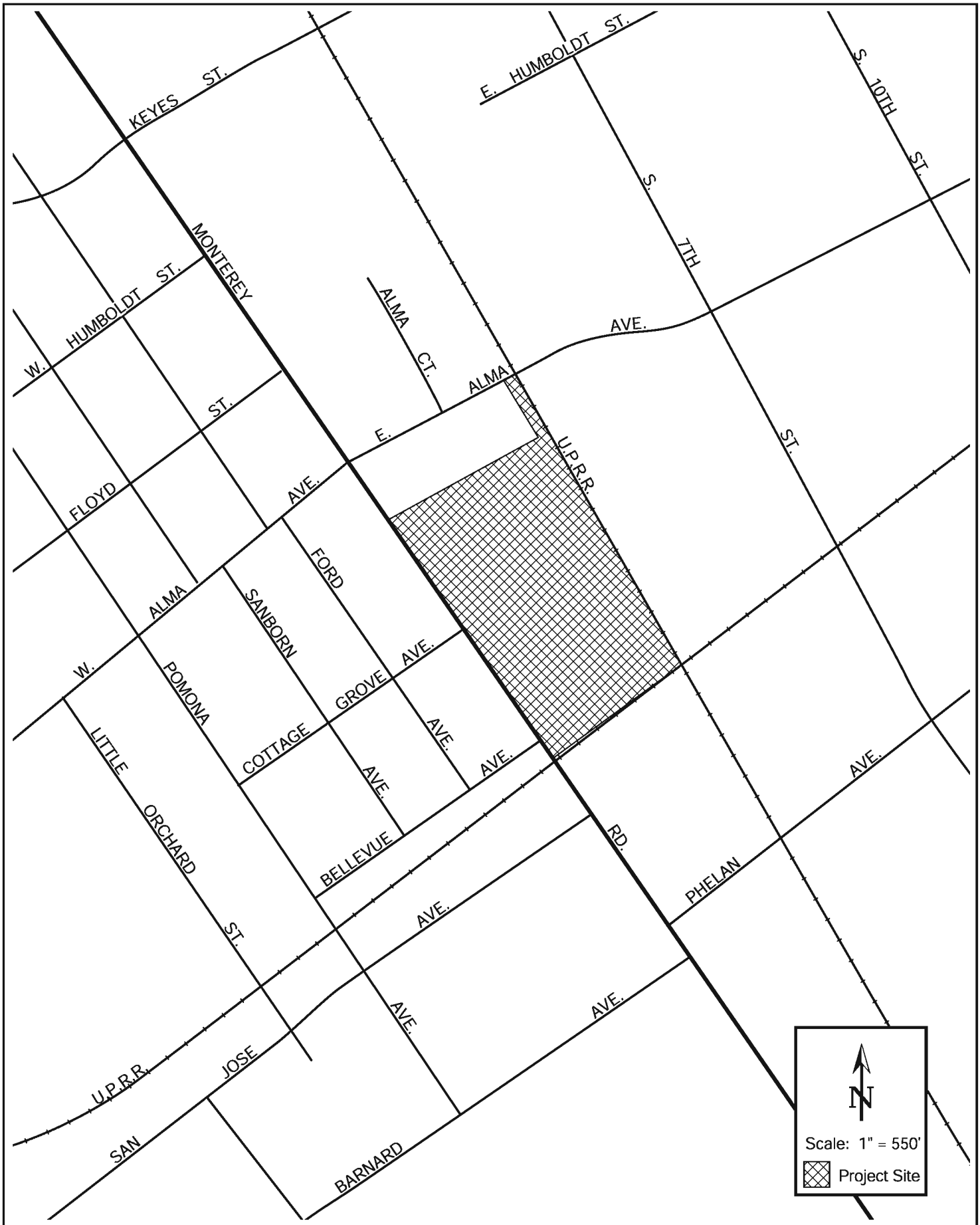
1. Create a community retail center along the southern gateway to downtown San José at Monterey/South First Street and E. Alma Avenue to further advance the Monterey Corridor Redevelopment Plan and the City of San José's Policy and Framework for the Preservation of Employment Lands.

2. Redevelop an underutilized site to revitalize the project area, introduce needed goods, services, and infrastructure to the project area, and improve the City's jobs-housing imbalance by increasing the number of jobs in San José.



REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2

3. Contribute positively to the City's desired balance between the need to house a growing population and the need to balance the City's budget, while providing acceptable levels of City service.

4. Provide San José residents an acceptable and centrally located site for shopping, dining, offices, and other services, with an adequate combination of facilities to accommodate convenient use.

5. Develop a retail center in a contemporary architectural style that commemorates the attributes of the California Mission and Mission Revival architectural styles found in the original Sun Garden Cannery complex to acknowledge the heritage of the project site.

6. Create a financially viable retail center that retains flexibility to attract high-quality tenants in an evolving, rebounding retail market.

7. Contribute to the goals of the City of San José and the San José Redevelopment Agency (Agency) for rehabilitation and revitalization of an underutilized large site generating tax increment revenue to the Agency and tax revenue to the City.

8. Strengthen the economic base of the City's Redevelopment Agency project area by providing up to 257,296 square feet of commercial space and associates employment opportunities and tax revenue.

9. Assemble property as necessary or beneficial to the creation of an integrated site plan with convenient vehicular and truck access at Monterey Road and Alma Street.

10. Add full intersection signalization along Monterey Road at Cottage Grove Avenue.

11. Contribute to the continued expansion of the City's trail system by providing pedestrian and bicycle access through the site.

1.4 USES OF THE EIR

This EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project.

The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this EIR:

1. General Plan Amendment
2. Rezoning
3. Site and Architectural Review
4. Tentative Map

The project site is currently developed with a 100,820 square foot, two-story occupied warehouse building, a 10,866 square foot, one-story commercial building (currently occupied by a restaurant), a 4,655 square foot, one-story house that was used as office and storage space for the Sun Garden Packing Company, and surface parking lots. All three buildings are located on the southern portion of the property. The northern portion is currently vacant.[1] The project site is currently designated *General Commercial* (approximately 7 acres along the Monterey Road frontage, the northern property line, and a portion of the eastern property line), *Heavy Industrial* (approximately 12 acres in the center of the site), and *Combined Industrial/Commercial* (approximately 0.5 acres along the southern property line) under the City of San José's adopted 2020 General Plan and zoned *LI – Light Industrial* (approximately 4.5 acres along the Monterey Road frontage) and *HI – Heavy Industrial* (approximately 15.6 acres on the remainder of the site). The current General Plan land use designations by acreage are shown on Figure 3.

The *Heavy Industrial* zoning district and General Plan designation is intended for industrial uses with hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. Very limited scale retail sales and service establishments serving nearby businesses and their employees may be considered appropriate where such establishments do not restrict or preclude the ability of surrounding Heavy Industrial land from being used to its fullest extent and are not of a scale or design that depend on customers from beyond normal walking distances. Any such uses should be clearly incidental to the industrial user on the property and integrated within an industrial building. The proposed project does not conform to the existing *Heavy Industrial* land use designation due to the proposed commercial/retail land uses. Therefore, the project proposes a General Plan Amendment to *Combined Industrial/Commercial* and rezoning to *CG(PD)*[2] Planned Development Zoning District to allow for the eventual demolition of the three existing structures on-site and the construction of a new 257,296 square foot retail center. (see Figures 4 and 5)

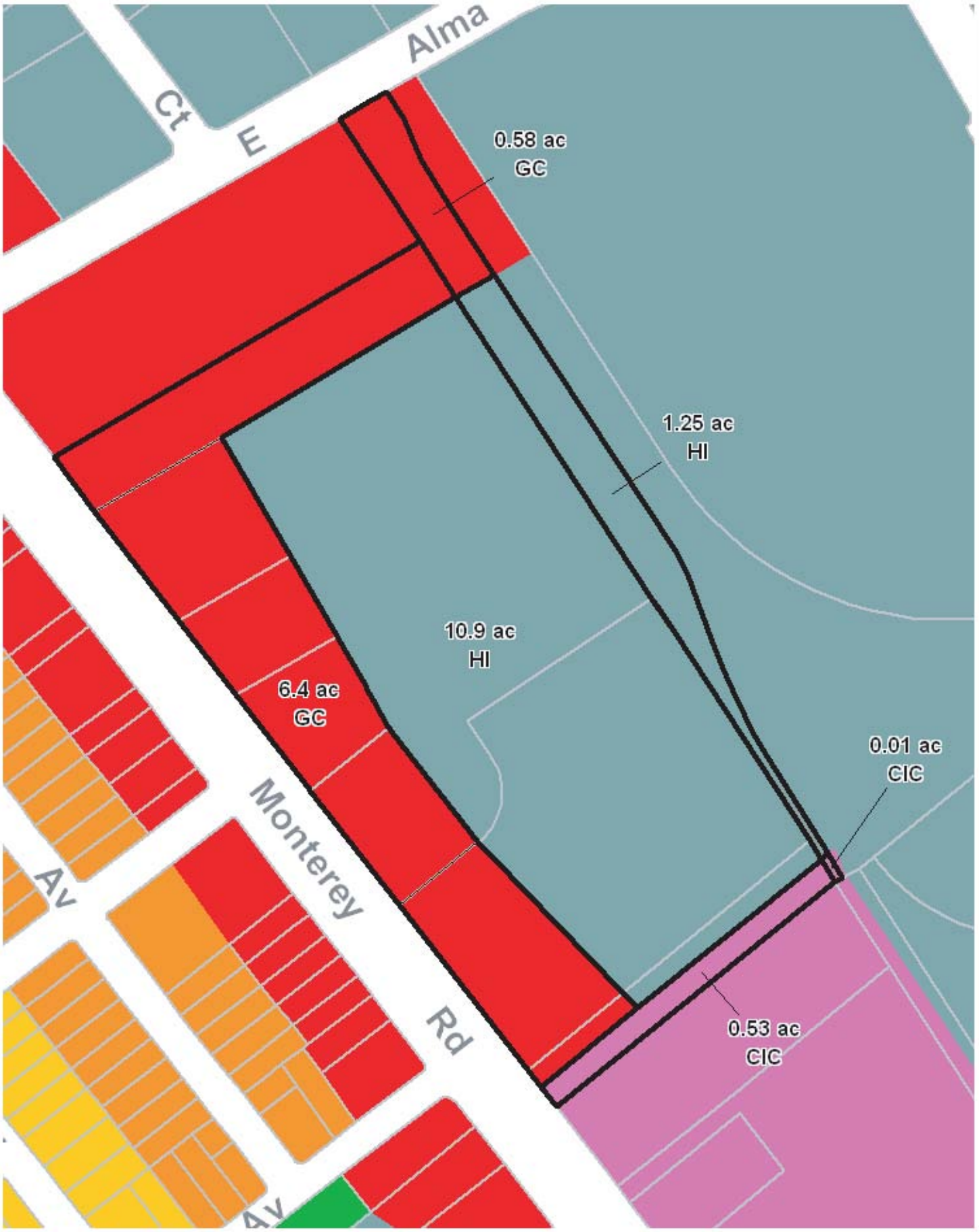
Access to the site will be from five driveways on Monterey Road. The main driveway will be signalized and centrally located along the Monterey Road frontage (in line with Cottage Grove Avenue). There will also be one driveway north of the main driveway and three driveways south of the main driveway. There is an active railroad spur along the east edge of the site. The project applicant has acquired a portion of this property to also provide access from E. Alma Avenue. Parking will be provided in surface parking lots throughout the site and along the Alma access drive aisle. The southernmost portion of the project site is currently occupied by an abandoned railroad right-of-way. The project proposes to construct a trail in this area.

The project would provide a total of 1,005 surface parking spaces on-site. The parking required for the site would be 972 spaces based on the City's zoning ordinance requirements (Chapter 20.90, Table 20-190, Neighborhood Shopping Center over 100,000 square feet) of one space per 225 square feet of floor area[3]. In addition to the general parking spaces, the project will be required to provide

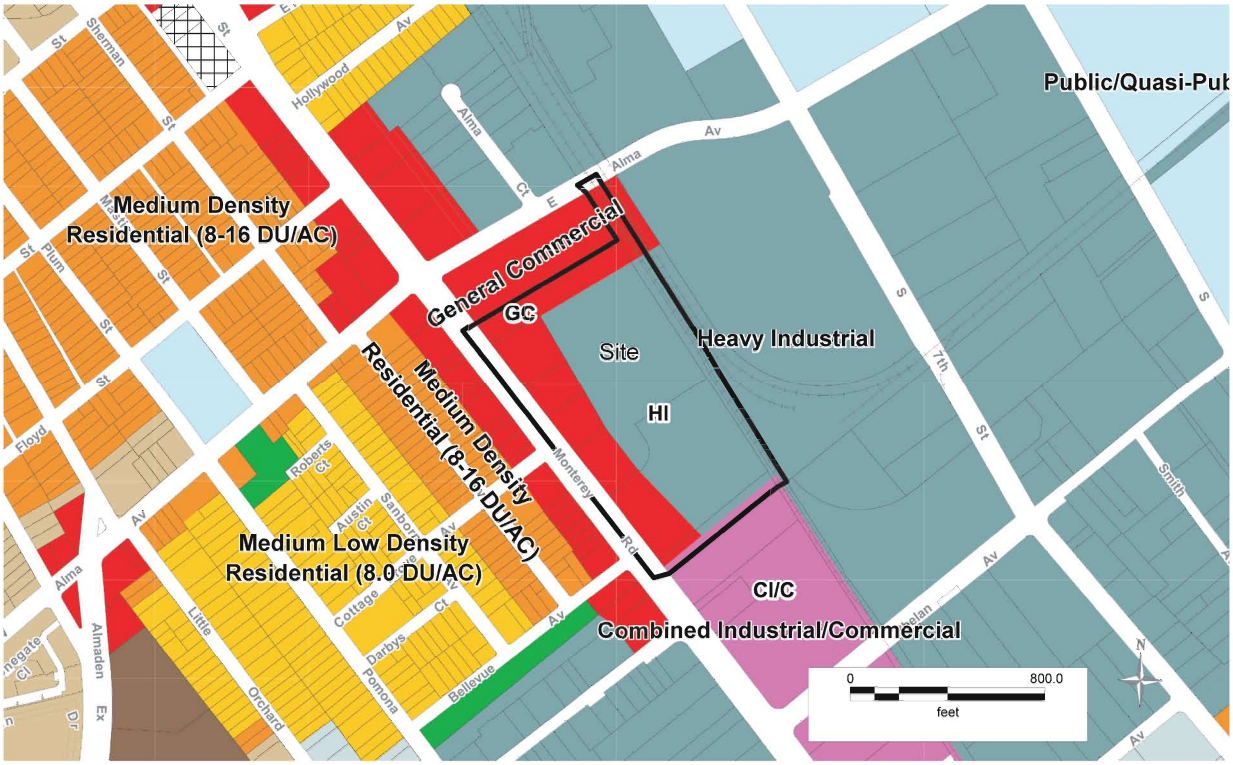
[1] The northern portion of the site was previously occupied by the Sun Garden Packing Company. The building complex was approved for demolition (File No. SP99-050) after a fire compromised the structural integrity of the buildings. Demolition was completed in 2002.

[2] This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls.

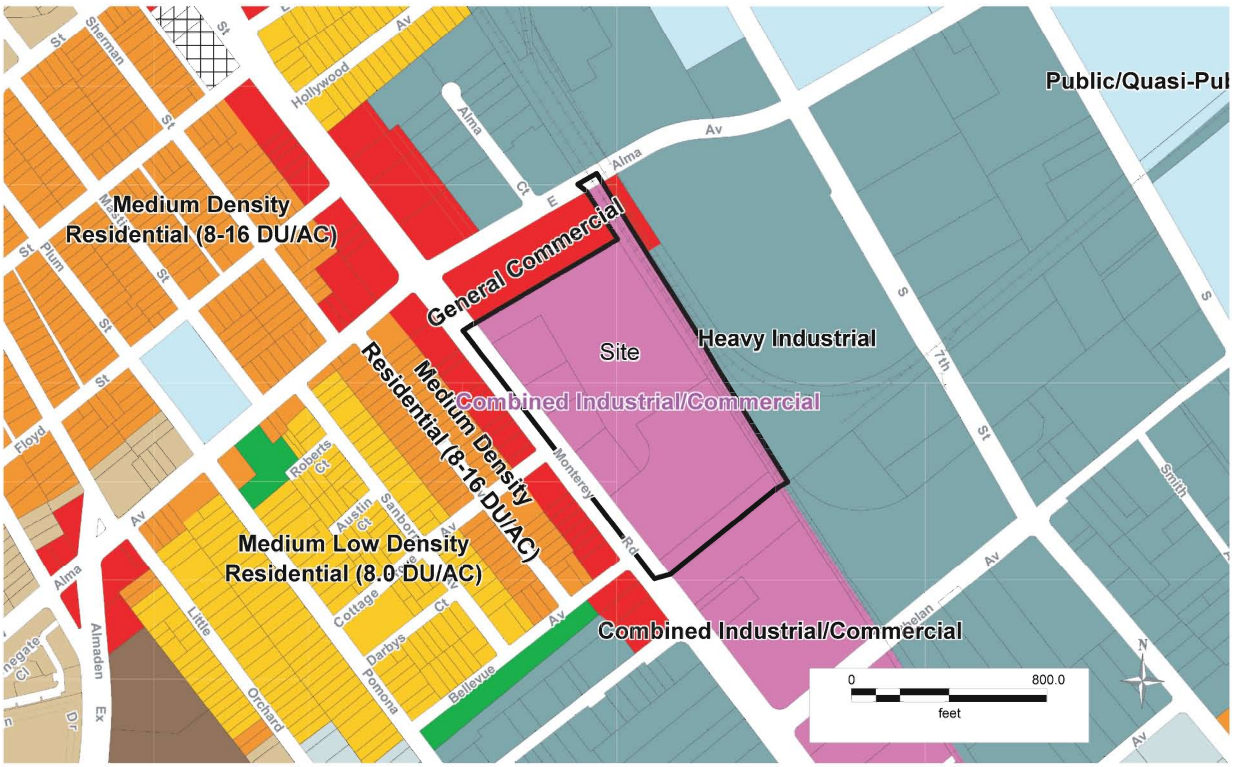
[3] Chapter 20.90 of the City's zoning ordinance defines floor area as 85 percent of the total gross floor area. Therefore, the parking requirement is based on a total floor area of 218,702 square feet.



EXISTING GENERAL PLAN LAND USE DESIGNATIONS BY ACERAGE **FIGURE 3**



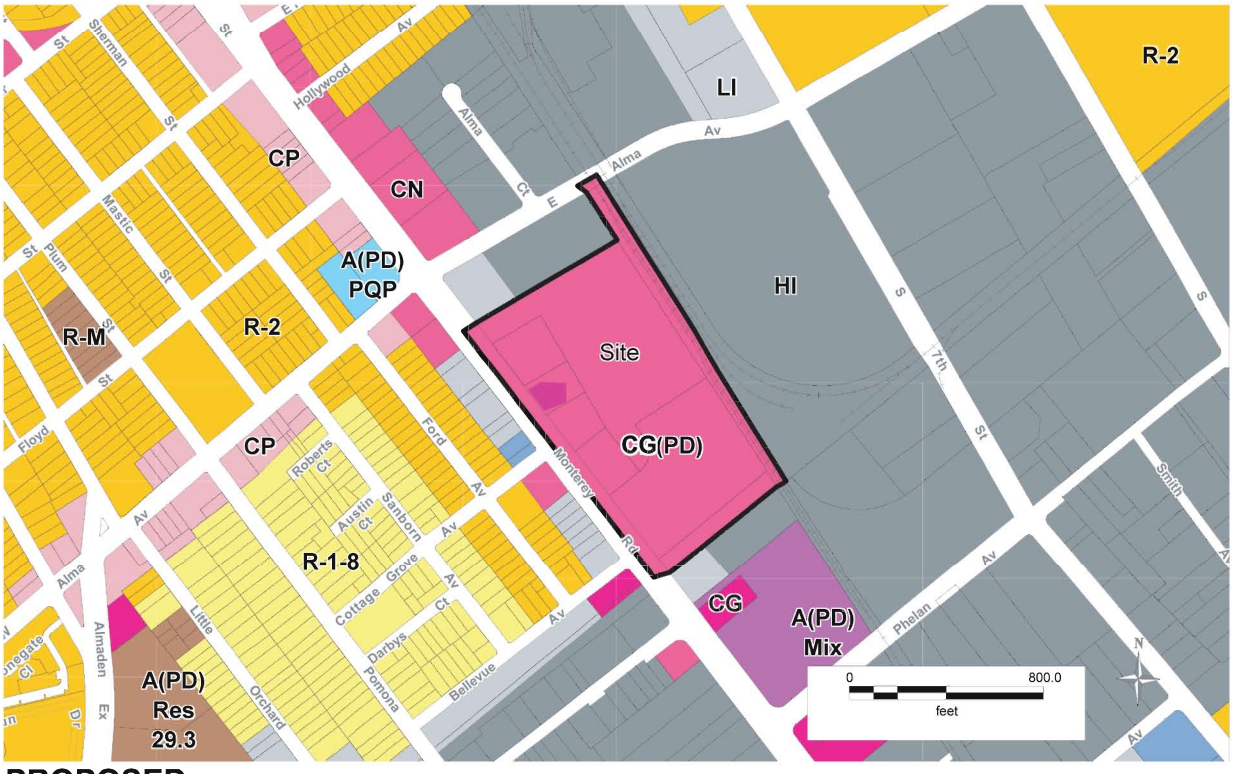
EXISTING



PROPOSED

EXISTING AND PROPOSED GENERAL PLAN DESIGNATIONS FIGURE 4

EXISTING



PROPOSED

EXISTING AND PROPOSED ZONING FIGURE 5

designated parking for bicycles, motorcycles, and clean air vehicles. The zoning code states that commercial developments are required to provide one bicycle parking space per 3,000 square feet of floor area (Table 20-190), one motorcycle space per 20 automobile spaces (table 20-250), and at least eight percent of the automobile spaces must be designated for clean air vehicles (Table 20-215).

The site plan for the proposed project is shown on Figure 6.

The project will include green building design features, including the following:

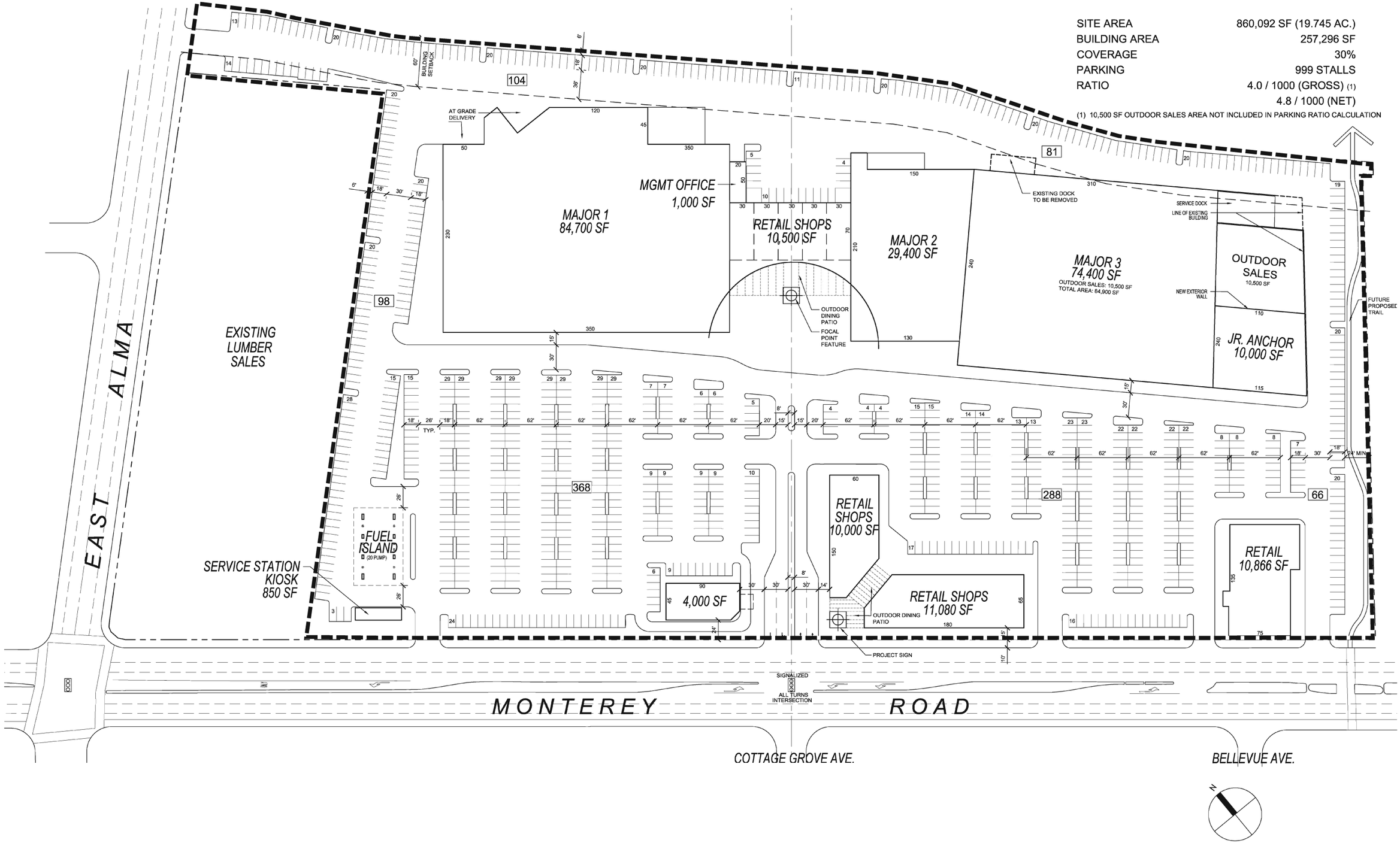
Green Building Design Features:

- Transit-oriented development - located on major bus lines
- Bike racks
- Preferential parking for hybrid and electric vehicles
- Water efficient landscaping
- Water efficient fixtures (low flow W.C.'s, etc.)
- Regional, renewable & recycled materials
- Low volatile organic compound (VOC) paints and sealants
- Reflective[4] parking deck surface (to reduce "heat island" effect)
- Cool roofs
- Energy efficient building systems

[4] Reflective refers to the surface material's ability to reject solar heat, it does not refer to visually reflective surfaces.

SITE AREA	860,092 SF (19.745 AC.)
BUILDING AREA	257,296 SF
COVERAGE	30%
PARKING	999 STALLS
RATIO	4.0 / 1000 (GROSS) (1)
	4.8 / 1000 (NET)

(1) 10,500 SF OUTDOOR SALES AREA NOT INCLUDED IN PARKING RATIO CALCULATION



CONCEPTUAL SITE PLAN

FIGURE 6

In conformance with Section 15125(d) of the CEQA Guidelines, the following section discusses the consistency of the proposed project with relevant adopted plans and policies.

3.1 Bay Area 2010 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD), in cooperation with the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), prepared the Bay Area 2005 Ozone Strategy (Ozone Strategy). The Ozone Strategy serves as a roadmap showing how the San Francisco Bay Area will achieve compliance with the state one-hour air quality standard for ozone as expeditiously as practicable and how the region will reduce transport of ozone and ozone precursors to neighboring air basins. In 2010, BAAQMD adopted a new Clean Air Plan with the intent of updating the 2005 Ozone Strategy to comply with State air quality planning requirements as codified in the California Health and Safety Code.

The Bay Area 2010 Clean Air Plan (CAP) provides a comprehensive plan to improve Bay Area air quality and protect public health. The CAP defines a control strategy that the Air District and its partners will implement to: (1) reduce emissions and decrease ambient concentrations of harmful pollutants; (2) safeguard public health by reducing exposure to air pollutants that pose the greatest health risk, with an emphasis on protecting the communities most heavily impacted by air pollution; and (3) reduce greenhouse gas (GHG) emissions to protect the climate.

Consistency: The proposed project would result in a net increase of 140,955 square feet of commercial/retail space on the project site. The increase in commercial/retail square footage would increase jobs within the City, but since San José has more employed residents than jobs, the project will not induce additional residential development in the region. The proposed project would not cause changes to local population projections or regional changes in vehicle use. As a result, the proposed project would not conflict with the CAP.

3.2 Santa Clara County Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the *Santa Clara County Congestion Management Program* (CMP). The relevant state legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of the increased gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element.

Consistency: The proposed project would not have a significant impact on any CMP intersections (see Section 4.8, *Transportation*) and is consistent with the CMP.

3.3 State Water Quality Control Board National Pollutant Discharge Elimination System Permit

The Porter-Cologne Water Quality Control Act and Federal Clean Water Act require local municipalities to implement measures to control construction and post-construction pollution entering local storm drainage systems to the maximum extent practicable. To comply with the requirements of the Porter-Cologne Water Quality Control Act and Federal Clean Water Act, the State Water Resources Control Board (SWRCB) implemented a National Pollution Discharge Elimination System (NPDES) permit for the Santa Clara Valley. Subsequent to implementation of the permit, the San Francisco Regional Water Quality Control Board (RWQCB) issued a Municipal Storm Water NPDES Permit to fifteen co-permittees. The fifteen co-permittees are the City of San José, twelve other municipalities within the Santa Clara Basin watershed area, the County of Santa Clara, and the Santa Clara Valley Water District (SCVWD). Two programs, the Nonpoint Source Pollution Program and the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), have been implemented under the NPDES permit to control construction and post-construction runoff.

Nonpoint Source Management Plan

In 1988 the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment of 1990. The Nonpoint Source Management Plan requires individual permits to control discharge associated with construction activities. The Nonpoint Source Management Plan is administered by the RWQCB under the NPDES General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- they disturb one acre or more of soil; or
- they disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

Consistency: Implementation of the proposed project would disturb more than one acre of soil and would require compliance with the Nonpoint Source Program. For a discussion of the measures proposed by the project to achieve compliance with the Nonpoint Source Program, refer to Section 4.4, *Hydrology and Water Quality*. With implementation of the proposed measures, the project will be consistent with the Nonpoint Source Management Plan.

Santa Clara Valley Urban Runoff Pollution Prevention Program – Municipal Regional Stormwater NPDES Permit

The SCVURPPP was developed by the RWQCB to assist co-permittees to implement the provisions of the NPDES permit. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Environmental Protection Agency develop NPDES application requirements for storm water runoff. The Program's Municipal Regional NPDES storm water permit (adopted on October 14, 2009) replaces the formerly separate countywide municipal stormwater permits with one permit for all 76 Bay Area municipalities to

standardize requirements throughout the region. It specifies actions necessary to reduce the discharge of pollutants in stormwater to the maximum extent practicable and effectively prohibits non-stormwater discharges into the municipal storm drainage system to protect local creeks and the Bay.

Applicable projects consist of all new public and private projects that create 10,000 square feet or more of impervious surface collectively over the entire project site and redevelopment projects that add or replace 10,000 square feet or more of impervious surface area on the project site. Additional requirements must be met by large projects that create one acre or more of impervious surfaces. These large projects must control increases in runoff peak flow, volume, and duration (referred to as Hydromodification) caused by the project if the increase in stormwater runoff has the potential to cause erosion or other adverse impacts to receiving streams.

Consistency: As discussed in Section 4.4., *Hydrology and Water Quality,* the proposed project includes applicable Best Management Practices to ensure that there is no increase in erosion or sedimentation that could impact local waterways. The implementation of erosion control and storm water management practices during and after project construction will be in accordance with the Municipal Regional Stormwater NPDES permit requirements and the City's Council Policies 6-29 and 8-14. For these reasons, the proposed project would be consistent with the Municipal Regional Stormwater NPDES permit and the Construction General NPDES Permit.

3.4 City of San José General Plan

The City of San José's General Plan is an adopted statement of goals and polices for the future character and quality of development in the community as a whole. The following is a summary of relevant sections of the General Plan that would apply to the proposed General Plan amendment and the proposed project.

3.4.1 Major Strategies

3.4.1.1 Economic Development Strategy

The Economic Development Strategy goals and policies are necessitated by an existing local government tax base which required cities to maximize tax revenue from non-residential development to support the services required by residential land uses. Currently, the City of San José provides the majority of affordable housing for employment opportunities in other cities, and is deficient in terms of job growth. The City's Economic Development Strategy strives to make San José a more balanced community by: 1) encouraging more commercial and industrial growth to balance existing residential development; 2) equitably distributing job centers and residential areas; and 3) controlling the timing of development. San José currently has a surplus of housing in relation to employment opportunities, which is referred to as a jobs/housing imbalance. This imbalance makes it difficult to provide adequate urban services because residential development does not generate sufficient revenue to cover service demands. Economic development is, therefore, a priority for San José.

Consistency: The northern portion of the project site is currently vacant land and the southern potion has three commercial/industrial buildings. The entire site has historically been developed with various job producing land uses. Approval of the proposed General Plan amendment and implementation of the proposed project would result in redevelopment of the project site with up to 140,955 square feet of new commercial development. The development of new commercial land uses on the project site would increase jobs in the City, thereby benefiting the existing jobs/housing

imbalance and increasing revenue for City services. The proposed General Plan amendment and proposed project are consistent with the City's Economic Development Strategy.

3.4.1.2 Sustainable City Strategy

The Sustainable City Strategy is a statement of San José's commitment to becoming an environmentally and economically sustainable city. Programs promoted under this strategy include recycling, waste disposal, water conservation, transportation demand management, and energy efficiency. The Sustainable City Strategy is intended to support these efforts by ensuring that development is designed and built in a manner consistent with the efficient use of resources and environmental protection.

Consistency: Approval of the proposed General Plan amendment and implementation of the proposed project would result in a retail center on a major roadway that is well served by public transportation (buses) and within close proximity to residential development. The site will be developed with the green building design features outlined in Section 2.0 and will provide new jobs and revenue to the City of San José. The proposed General Plan amendment and proposed project are consistent with the City's Sustainable City Strategy.

3.4.1.3 Growth Management Strategy

The purpose of the Growth Management Strategy is to find the delicate balance between the need to house new populations and the need to balance the City's budget, while providing acceptable levels of service. The City's strategy for growth management can best be described as the prudent location of new development to maximize the efficient use of existing urban facilities and services, and to this end, the General Plan encourages infill development within urbanized areas.

Consistency: Approval of the proposed General Plan amendment and implementation of the proposed project would result in a retail development on an infill location just south of the downtown area. The project will provide new jobs in a highly urbanized area of the City and will increase revenue for City services. The proposed General Plan amendment and proposed project are consistent with the City's Growth Management Strategy.

3.4.2 Goals and Policies

The General Plan contains hundreds of policies regarding land use development, provisions of services and facilities, and the protection of environmental resources. The following discussion focuses of those policies that are most relevant to the project.

3.4.2.1 Neighborhood Identity Policies

Policy 3: Public and private development should be designed to improve the character of existing neighborhoods. Factors that cause instability or create urban barriers should be discouraged or removed.

Consistency: The proposed project will redevelop an underutilized parcel with residential serving retail land uses in close proximity to an existing residential neighborhood. Therefore, the proposed General Plan amendment and proposed project are consistent with Neighborhood Identity Policy 3.

3.4.2.2 Balanced Community Policies

Policy 1: The City should foster development patterns which will achieve a whole and complete community in San José, particularly with respect to improving the balance between jobs and economic development on one hand, and housing resources and a resident work force on the other. A perfect balance between jobs and housing may not be achievable but the City should attempt to improve this balance to the greatest extent feasible.

Consistency: The proposed project will add jobs on a currently vacant and underutilized site. The addition of jobs on the project site will provide retail services to the nearby residential neighborhood and help to alleviate the jobs/housing imbalance in the City. Therefore, the proposed General Plan amendment and proposed project are consistent with Balanced Community Policy 1.

3.4.2.3 Commercial Land Use Policies

Policy 1: Commercial land is San José should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimized the need for automobile travel. New commercial development should be located near existing centers of employment or population or in close proximity to transit facilities and should be designed to encourage pedestrian and bicycle access through techniques such as minimizing building separation from the street, providing safe, accessible, convenient and pleasant pedestrian connections, secure bike storage, etc. Employee intensive uses should be encouraged to locate along multi-modal transit corridors.

Policy 2: New commercial uses should be located in existing or new shopping centers or in established strip commercial areas.

Policy 5: Commercial development should be allowed within established residential neighborhoods only when such development is compatible with the residential development and is primarily neighborhood serving.

Consistency: The proposed project will redevelop an underutilized parcel with residential serving retail land uses in close proximity to an existing residential neighborhood. The new development will be located on a major thoroughfare with transit access. Therefore, the proposed General Plan amendment and proposed project are consistent with Commercial Land Use Policies 1, 2, and 5.

3.4.2.4 Economic Development Policies

Policy 1: The City should reduce the present imbalance between housing and employment by seeking to obtain and maintain an improved balance between jobs and workers residing in San José. A perfect balance between the number of jobs and employed residents may not be achievable but the City should strive to achieve a minimum ratio of 0.80 jobs/employed resident to attain greater fiscal stability.

Consistency: The proposed project will create jobs by redeveloping an underutilized parcel with commercial/retail land uses. This increase in local jobs will help to alleviate the jobs/housing imbalance in the City. Therefore, the proposed General Plan amendment and proposed project are consistent with Economic Policy 1.

3.4.2.5 Urban Design Polices

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.

Policy 19: In the Downtown Core Area, and along designated Neighborhood Business Districts and public streets identified as Pedestrian Corridors in adopted Neighborhood Improvements Plans completed for the Strong Neighborhoods Initiative (SNI) Redevelopment Project Area, a pedestrian orientation should be fostered by appropriate design techniques including:

- The location of retail and commercial uses at street level.
- Building entrances should be easily identifiable, accessible, and located on street frontages or paseos.
- Improvements to sidewalks and other pedestrian ways should include attractive and interesting streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented signage, clocks, fountains, landscaping, and street trees that provide shade.
- Development should have an attractive street presence at a pedestrian scale, creating an engaging and diverse walking environment.
- Sidewalk elevators should be strongly discouraged in areas of high pedestrian usage.
- Sidewalks, plazas and other pedestrian ways should be spacious and of ample width.
- Commercial uses oriented to occupants of vehicles, such as drive-up service windows, are discouraged.
- High pressure sodium street lighting may be considered along public streets if the street lighting is attractive and compatible with the surrounding neighborhoods, and does not significantly impact the Lick Observatory's operations. Along designated Neighborhood Business Districts and public streets identified as Pedestrian Corridors in adopted Neighborhood Improvement Plans completed for the Strong Neighborhoods Initiative (SNI) Redevelopment Project Area, up to 300 high pressure sodium lights may be allowed if the street lighting is attractive and compatible with the surrounding neighborhoods, and does not significantly impact the Lick Observatory's operations. Prior to approval, all proposals for high pressure sodium street lighting should be referred to the Lick Observatory for comments.

Policy 22: Design guidelines adopted by the City Council should be followed in the design of development projects.

Policy 24: New development project should include the preservation of ordinance-sized and other significant trees. Any adverse affect on he health and longevity of such trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate replacement trees.

Policy 29: To the extent practical, all new development should use construction products that are either made from recycled and/or salvaged materials, or can be reused and/or recycled.

Policy 33: All developments should provide pedestrian friendly design features including, but not limited to, pedestrian pathways connecting public streets to building entrances, and other features of the site. In addition, street trees and appropriate pedestrian scale lighting should be installed in developments within Pedestrian Priority Areas. Along designed Neighborhood Business Districts and public streets identified as Pedestrian Corridors in adopted Neighborhood Improvement Plans completed for the Strong Neighborhoods Initiative (SNI) Redevelopment Project Area, up to 300

high pressure sodium lights may be allowed if the street lighting is attractive and compatible with the surrounding neighborhoods, and does not significantly impact the Lick Observatory's operations. Prior to approval, all proposals for high pressure sodium street lighting should be referred to the Lick Observatory for comments. Non-residential development should include street shade, pedestrian-oriented signage, and building entrances along the street frontage. Within the public right-of-way, pedestrian-oriented signage could include "trailblazer" signs.

Consistency: The proposed project has been designed with water efficient landscaping that will be placed throughout the site, particularly within the parking lot, in compliance with the City's Commercial Design Guidelines. The proposed project has been designed at a pedestrian scale with a central plaza area. Sidewalks and street lights along Monterey Road will not be altered as part of the proposed project. The City's applicable design guidelines will be adhered to and all trees removed from the project site will be replaced in accordance with City requirements. Lastly, the project proposes to use regional, renewable, and recycled building materials. Therefore, the proposed General Plan amendment and proposed project are consistent with Urban Design Policies 2, 19, 22, 24, 29, and 33.

3.4.2.6 Services and Facilities Policies

Policy 12: New projects should be designed to minimize potential damage due to storm waters and flooding to the site and other properties.

Consistency: As discussed in Section 4.4, *Hydrology and Water Quality*, the proposed project will comply with the requirements of the SCVURPPP, NPDES permit requirements, and the City's Council Policy 6-29 and 8-14. In addition, the project will be constructed to avoid known flood risks. Therefore, the proposed General Plan amendment and proposed project are consistent with Services and Facilities Policy 12.

3.4.2.7 Parks and Recreation Policies

Policy 8: The City should consider the conversion of abandoned railroad rights-of-way into multi-purpose trails.

Consistency: The southernmost end of the project site is currently occupied by an abandoned railroad right-of-way. The project proposes to dedicate this right-of-way for the construction of a trail. Therefore, the proposed General Plan amendment and proposed project are consistent with Parks and Recreation Policy 8.

3.4.2.8 Urban Forest Policies

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.

Consistency: Development of the site will result in the removal of 28 trees, four of which are ordinance size. All trees removed by the project would be replaced at the ratios specified in Section 4.5, *Vegetation and Wildlife*. Therefore, the proposed General Plan amendment and proposed project are consistent with Urban Forest Policy 2.

3.4.2.5 Water Resources Policies

Policy 13: For all new discretionary development permits for projects incorporating large paved areas or other land surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

Consistency: Development of the site will include construction and post-construction measures, consistent with Regional Water Quality Control Board (RWQCB) permit requirements, to minimize the degradation of stormwater runoff as specific in Section 4.4, *Hydrology and Water Quality*. Therefore, the proposed General Plan amendment and proposed project are consistent with Water Resources Policy 13.

3.4.2.6 Soil and Geologic Conditions Policies

Policy 6: Development in areas subject to soils and geologic hazards should incorporate adequate mitigation measures.

Consistency: The proposed project will be constructed in accordance with the Uniform Building Code. Therefore, the proposed General Plan amendment and proposed project are consistent with Soils and Geologic Conditions Policy 6.

3.4.2.7 Earthquake Policies

Policy 3: The City should only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.

Consistency: As described in Section 4.3, *Geology and Soils*, there are no fault-related hazard zones on or adjacent to the project site. In addition, the project will be constructed in accordance with the Uniform Building Code. Therefore, the proposed General Plan amendment and proposed project area consistent with Earthquake Policy 3.

3.4.2.8 Fire Hazards Policies

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.

Consistency: The proposed project will be constructed in conformance with City Code requirements for emergency vehicle assess and evacuation. Therefore, the proposed General Plan amendment and proposed project are consistent with Fire Hazards Policy 6.

3.4.2.9 Transportation Policies

Policy 1: Interneighborhood movement of people and goods should occur on thoroughfares and is discouraged on neighborhood streets.

Policy 8: Vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.

Policy 16: Pedestrian travel should be encouraged as a viable mode of movement between high density residential and commercial areas throughout the City and in activity areas such as schools,

parks, transit stations, and in urban areas, particularly the Downtown Core Area and neighborhood business districts by providing safe and convenient pedestrian facilities.

Policy 41: The City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks, and transit facilities and should promote bicycling as an alternative mode of transportation for commuting as well as for recreation.

Consistency: The project site is located on a major thoroughfare within close proximity to an existing residential neighborhood. In addition, the project area is accessible by bicycles and has pedestrian facilities that would allow local residents to access the project site without an automobile. Lastly, the project site is served by existing bus routes on Monterey Road. Therefore, the proposed General Plan amendment and proposed project area consistent with Transportation Policies 1,8,16, and 41.

3.4.2.10 Energy Policies

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 air passive cooling protection from prevailing winds and maximum year-round solar access.

Consistency: As described in Section 4.13, Energy, the proposed project will be constructed in conformance with City and State requirements for energy efficiency. Therefore, the proposed General Plan amendment and proposed project are consistent with Energy Policy 4.

3.4.3 City of San José Framework for Preservation of Employment Lands

Employment lands are defined as non-residentially designated lands that support private sector employment[5]. The loss of employment lands is a major issue for the City of San José because employment lands (industrial and commercially designated parcels) make up approximately 15 percent of the City's total land supply but generate approximately 60 percent of the City's total revenue. Since 1990, San José has converted approximately 1,400 acres of employment lands (equal to nine percent of all employment lands) to other uses. The rate of conversion was approximately 68.6 acres per year from 1990 to 2000. Between 2001 and 2006, the rate of employment land conversion nearly doubled to 119.7 acres per year. The conversion of employment lands results in

1. Loss of jobs and job capacity;
2. Loss of tax base and revenue for City services;
3. Restrictions for adjacent industrial companies limited by incompatible residential or other development; and
4. Loss of potential large-scale commercial retail opportunities.

3.4.3.1 2005 Framework

In April 2004, the City Council approved the *Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses* (2005 Framework) to address the cumulative loss of industrial lands through incremental conversions resulting from General Plan amendments. The intent of the 2005 Framework was to identify employment subareas within the City where conversion

[5] Sites designated *Public/Quasi-Public* in the San José 202 General Plan Land Use/Transportation Diagram are not considered employment lands for the purposes of the Preservation Framework.

shall be discouraged and to identify other subareas where conversion of industrial land to other uses could be considered on a case-by-case basis. The 2005 Framework has been successful in stopping some industrial land conversions throughout the City.

3.4.3.2 2005 Framework Update

In March 2007, City staff made a presentation to the City Council outlining the relationship between land use and revenue and demonstrating the potential fiscal impacts related to the conversion of employment lands to non-employment uses. The recommendation was to strengthen the 2005 Framework to limit conversions of employment lands to projects of "Extraordinary Economic Benefit." In response, the City Council directed staff to prepare an updated Framework that emphasizes the preservation of employment lands (Preservation Framework) and incorporates policies to discourage the conversion of industrial and commercial lands to non-employment uses while maintaining the flexibility to consider special or unique proposals that would help the City achieve its overall goals for economic development.

3.4.3.3 Framework for Preservation of Employment Lands

The Framework for Preservation of Employment Lands focuses on strategies for preserving employment lands instead of identifying criteria or subareas where conversion can be facilitated. The Preservation Framework is intended to achieve the following outcomes:

1. No net loss of total employment capacity as a result of any amendment to the San José 2020 General Plan.
2. No net loss from non-employment land use conversions of Light Industrial or Heavy Industrial acreage or building area square footage on land that has the General Plan land use designation of Light Industrial or Heavy Industrial.
3. Applications for conversions to support public infrastructure may be accepted only after the infrastructure has been designated by the City Council as public infrastructure intended to be supported by increases in non-employment uses.
4. Extraordinary Economic Benefit conversions must meet the above criteria and shall be limited to those instances where there will be an increase or retention of jobs, and a significant increase in revenue to the City, or a significant capital contribution for investments in economic development like the Catalyst fund or the Economic Development Reserve.
5. Changes in areas with mixed use overlays shall not decrease the amount of land available for religious assembly uses.

The Framework for Preservation of Employment lands applies to any General Plan amendments that include:

1. The conversion of any category of employment lands, including industrial or commercial lands, to non-employment uses; or
2. The conversion of employment lands to a mix of uses that includes both employment and non-employment uses.

The Framework for Preservation of Employment Lands does not apply to conversions of Light Industrial acreage to Heavy Industrial acreage (or vise versa) and does not apply to conversions of commercial land to industrial land.

Specific procedures for the preservation of employment lands are: 1) maintain no net loss of Light or Heavy Industrial acreage; 2) discourage conversion of non-employment uses in key employment areas; 3) intensify to retain job capacity on sites currently designated for Industrial Park or Combined Industrial/Commercial; 4) maintain employment lands for non-residential uses; 5) retain citywide job capacity; and 6) discourage new residential development on sites converted from Industrial to Commercial land use designations. The project's consistency with the specific procedures is provided below.

Intensify to Retain Job Capacity on Sites Currently Designated for Industrial Park or Combined Industrial/Commercial

In situations where conversion does not involve *Light Industrial* or *Heavy Industrial* land uses, retention of employment capacity on site by intensification of the development's Floor Area Ratio (FAR) may be feasible.

Non-employment uses may be added to a site by retaining the existing job capacity through intensification on the remainder of the site for properties located outside of Coyote Valley, North San José, the Monterey Corridor Redevelopment Project Area, and the Evergreen industrial area. Minimum FARs to achieve this should be at least 0.35. For sites located within 2,000 feet of an existing or planned Light Rail Transit station, or within 3,000 feet of future BART stations, the minimum FAR for existing employment uses to be maintained prior to intensification with other uses should be 0.40.

As part of the City's Retail Strategy, the City continues to consider adding retail sites to the City's inventory based on specific criteria for a property's size, shape, access to transportation, and connection to neighborhoods. This strategy includes considering sites for retail uses that are currently designated for exclusively industrial employment uses. Intensification of employment uses can accommodate the retention of existing *Industrial Park* and *Research and Development* industrial employment capacity on a site while adding new retail employment capacity. In situations where it is not feasible to add retail capacity to an existing site while maintaining the original industrial employment capacity on the site, the original industrial employment capacity may be abandoned if the project proponent can document to the satisfaction of the City that a net increase of sales tax revenue will result from the conversion.

Consistency: The majority of the proposed project site is not currently designated for *Industrial Park* or *Combined Industrial/Commercial*. The only area currently designated as *Combined Industrial/Commercial* is the abandoned rail line at the southern end of the site which will remain *Combined Industrial/Commercial* under the proposed project. As a result, this procedure is not applicable.

Maintain No Net Loss of Light or Heavy Industrial Acreage

Ideally, existing Light and Heavy Industrial acreage should be preserved. If it is not feasible to preserve the acreage and job capacity of existing Light or Heavy Industrial employment lands, then changing non-employment, or other employment, acreage to Light or Heavy Industrial acreage should offset the impacts of conversion of Light or Heavy Industrial acreage to other uses so that there is no net loss. The City Council may approve General Plan amendments to change land use designations on such sites to allow exclusively Light or Heavy Industrial uses, thereby creating acreage for these uses. This new acreage could then offset the loss of other acreage proposed to convert from Light Industrial or Heavy Industrial to other designations.

These re-designations would be most successful in protecting industrial lands, if they meet all of the following criteria:

1. The site is adjacent to viable Light or Heavy Industrial designated land.
2. The site is currently zoned to allow Light or Heavy Industrial uses.
3. The site currently contains legal Light or Heavy Industrial businesses.
4. The site is at least five acres in area.

Another way to create Light or Heavy Industrial land capacity is by the removal of an overlay that allows a mix of uses such as a Mixed Industrial Overlay or a Transit/Employment Residential Overlay, on a site with a base land use designation of Light or Heavy Industrial. In situations where an overlay that allows a mix of uses is removed from a site, it should be demonstrated that such a removal does not decrease the amount of land available for religious assembly uses.

A third way to create Light or Heavy Industrial acreage is by changing sites designated Combined Industrial/Commercial to an exclusively Light or Heavy Industrial land use designation.

Consistency: The project proposes a General Plan amendment to *Combined Industrial/Commercial* on a 19.75-acre parcel that is currently designated *General Commercial* and *Heavy Industrial*. Approval of the proposed General Plan amendment would result in the loss of *Heavy Industrial* land on the project site but would not result in an overall loss of jobs or job producing lands within the City. The project does not conform to the City's Framework Policy; however, it does conform to the City's future direction for the site as expressed in various outreach documents prepared by the General Plan Update Team. While the proposed project is consistent with the City's future planning of the site, it is not consistent with this specific measure of the Preservation Framework.

Discourage Conversion to Non-Employment Uses in Key Employment Areas

The conversion of employment lands to non-employment uses are discouraged in key employment areas including Coyote Valley, North San José, the Evergreen industrial area, the Edenvale Redevelopment Project Area, the Monterey Corridor Redevelopment Project Area, and the expanded Downtown Core. Conversion of employment lands to non-employment uses in a key employment area may be supported by the Preservation Framework only if there is no net loss of employment capacity in the subject key employment area and if an Extraordinary Economic Benefit is identified.

Consistency: The project does not propose to convert the project site to non-employment land uses. Therefore, the proposed General Plan amendment is consistent with this specific measure of the Preservation Framework.

Maintain Employment Lands for Non-Residential Uses

Land designated for a mix of employment uses that was previously designated for exclusively industrial uses should not be converted to allow residential uses. If a residential conversion is proposed within 10 years of the previous conversion from industrial to non-industrial employment uses, the proposed residential conversion shall be reviewed and considered as if the land was currently designated for exclusively industrial uses.

Consistency: The project does not propose to convert the project site to non-employment land uses. Therefore, the proposed General Plan amendment is consistent with this specific measure of the Preservation Framework.

Retain Citywide Job Capacity

When land designated for employment uses is converted to land designated for exclusively non-employment uses, such as residential, there should be no net loss of job capacity in the City. Intensifying job capacity on other lands designated for employment uses in the City or concurrently converting equivalent acreage from exclusively non-employment uses to acreage designated for employment uses within the City are possible methods of maintaining the criterion of no net loss of job capacity Citywide.

Consistency: The project does not propose to convert the project site to non-employment land uses. Therefore, the proposed General Plan amendment is consistent with this specific measure of the Preservation Framework.

Discourage New Residential Development on Sites Converted from Industrial to Commercial Land Use Designations

The *Combined Industrial/Commercial* land use designation should be selected to allow commercial and industrial uses on sites converted from exclusively industrial uses. The *Combined Industrial/Commercial* land use designation excludes residential uses.

Consistency: The project General Plan amendment would not allow housing to be constructed on the project site. Therefore, the proposed General Plan amendment is consistent with this specific measure of the Preservation Framework.

4.1 LAND USE AND PLANNING

4.1.1 Existing Setting

The following discussion identifies the existing conditions on and adjacent to the proposed project site.

4.1.1.1 Existing Land Use

The 19.75-acre project site is comprised of eight parcels located on the east side of Monterey Road, southeast of the Monterey Road/E. Alma Avenue intersection in the City of San José. The project site is located in an existing urban/commercial/industrial area and is developed with three buildings totaling approximately 116,341 square feet. The existing buildings are located on the southern portion of the project site and include a 100,820 sf, two-story industrial/warehouse building, a 10,866 sf, one-story commercial building (currently occupied by a restaurant), a 4,655 sf, one-story house that was used as office and storage space for the Sun Garden Packing Company. Surface parking lots surround the three buildings.

The northern portion of the site is currently vacant except for a large dirt/debris pile consisting of recycled baserock material near the eastern property line. The vacant portion of the project site is separated from the developed portion by a six-foot chain link fence.

Figure 7 shows an aerial of the project site and surrounding land uses.

4.1.1.2 Surrounding Land Uses

Development in the project area is a combination of commercial and industrial low-rise buildings and housing. The project site is adjacent to a large retail building (Southern Lumber – a large lumber yard and hardware store) to the north, a Union Pacific rail line and a large industrial complex to the east, a commercial building to the south, and Monterey Road to the west. Monterey Road is a six-lane major thoroughfare that runs from downtown San José to Morgan Hill.

North of Southern Lumber is E. Alma Avenue, a four lane roadway. North of E. Alma Avenue is a restaurant and a light industrial office complex. West of Monterey Road, along the frontage, is a mixture of small commercial businesses including restaurants, motels, a U-Haul rental company, a pet supply store, auto parts stores, furniture stores, and used car lots. Immediately behind the commercial businesses is a large single-family neighborhood. South of the project site, along the east side of Monterey Road, is a mixture of commercial businesses including a motel, restaurants, and a recycling center.

4.1.1.3 Existing Land Use Designation and Zoning

The City of San José General Plan is an adopted statement of goals and policies for the future character and quality of development of the community. The Zoning Ordinance establishes various districts within the City and specifies the lawful and unlawful uses within the districts to encourage the most appropriate use of land within the City. The project site is currently designated *General Commercial*, *Heavy Industrial* and *Combined Industrial/Commercial* under the City of San José's adopted General Plan and zoned

AERIAL PHOTOGRAPH

FIGURE 7

LI – Light Industrial and *HI – Heavy Industrial.* (see Figure 3)

The *Heavy Industrial* zoning and General Plan land use designation is intended for industrial uses with hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. Very limited scale retail sales and service establishments serving nearby businesses and their employees may be considered appropriate where such establishments do not restrict or preclude the ability of surrounding Heavy Industrial land from being used to its fullest extent and are not of a scale or design that depend on customers from beyond normal walking distances. Any such uses should be clearly incidental to the industrial user on the property and integrated within an industrial building. While the project is consistent with the *General Commercial* land use designation, the project does not conform to the existing *Heavy Industrial* land use designation due to the proposed commercial/retail land uses. Therefore, the project proposes a General Plan Amendment to *Combined Industrial/Commercial* and rezoning to *CG(PD)* zoning district to allow for the demolition of the existing structures on the site and the construction of up to 257,296 square feet of new commercial/retail development.

4.1.2 Land Use Impacts

4.1.2.1 Thresholds of Significance

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

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect;
- Conflict with an applicable habitat conservation plan or natural community conservation plan;
- Increase the amount of shading on public open spaces (e.g., parks, plazas, and/or school yards);
- Convert prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses;
- Conflict with existing zoning for agricultural use, or a Williamson Act contract;
- 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);
- Result in the loss of forest land or conversion of forest land to non-forest use;
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use;
- Induce substantial population growth in an area, either directly or indirectly;
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

4.1.2.2 Land Use Conflicts

Land use conflicts can arise from two basic causes: 1) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere; or 2) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project. Both of these circumstances are aspects of land use compatibility. Potential incompatibility may arise from placing a particular development or land use at an inappropriate location, or from some aspect of the project's design or scope. Depending on the nature of the impact and its severity, land use compatibility conflicts can range from minor irritations and nuisance to potentially significant effects on human health and safety. The discussion below distinguishes between potential impacts *from* the proposed project *upon* persons and the physical environment, and potential impacts *from* the existing surroundings *upon* the project itself.

Consistency with the General Plan Land Use Designation and Zoning

The project site is currently designated *General Commercial, Combined Industrial/Commercial,* and *Heavy Industrial* in the San José General Plan and zoned *LI – Light Industrial* and *HI – Heavy Industrial*. The *General Commercial* and *Combined Industrial/Commercial* General Plan designations allow for a full range of retail and commercial uses with a local or regional market. As stated above, the *Heavy Industrial* General Plan designation allows for industrial uses with hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. The project, as proposed, is inconsistent with the current *Heavy Industrial* land use designation due to the proposed commercial/retail land uses.

The project proposes a General Plan amendment for the entire 19.75-acre site to *Combined Industrial/Commercial*. This land use designation allows commercial, office, or industrial development or a compatible mixture of these uses. "Big Box" retail as a stand-alone use or as part of a larger retail development is appropriate under this designation. With approval of the proposed General Plan amendment, the project will be consistent with City land use regulations. If the General Plan amendment is not approved, the project cannot be approved as proposed. **(Less Than Significant Impact)**

The *Light Industrial and Heavy Industrial* zoning designations are not compatible with the proposed project. The project proposes a *CG(PD)* Planned Development rezoning for the entire project site to allow the greatest flexibility for future retail/commercial land uses on-site. With approval of the proposed *CG(PD)* Planned Development zoning, the project will be consistent with the zoning code. If the zoning is not approved, the project cannot be approved as proposed. **(Less Than Significant Impact)**

Land Use Impacts

The existing development surrounding the proposed project site is mostly commercial and industrial businesses. There is, however, a residential neighborhood approximately 270 feet west of the project site[6]. There is a major roadway and a row of commercial buildings separating the project site from the back fences of the nearest residences.

The proposed commercial land use on the project site would be similar to the existing uses in the project area and would not physically divide an established community. There are no sensitive receptors immediately adjacent to the project site that would be impacted by a commercial

[6] As measured from the western property line of the project site to the nearest eastern residential property line.

development. Therefore, the proposed development would be compatible with the surrounding industrial, commercial, and residential land uses. **(Less Than Significant Impact)**

The project site is in a developed urban area and is not subject to any adopted habitat conservation plan (HCP) or natural community conservation plan (NCCP). As a result, the proposed project will not conflict with any HCP or NCCP. **(Less Than Significant Impact)**

4.1.2.3 Agricultural/Forestry Impacts

The proposed project site is a developed industrial site, is not designated as farmland, and has not been used as farmland. The project site is not forest land nor is it zoned forest land. Because the project will not conflict with existing agricultural or forest land zoning or a Williamson Act contract, nor convert or facilitate the conversion of prime farmland or forest land to non-agricultural/forestry uses, implementation of the proposed project will have no impact on farmland or forest land. **(No Impact)**

4.1.2.4 Population and Housing Impacts

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

According to the Association of Bay Area Governments (ABAG) *Projections 2007,* the population in the year 2005 in the City of San José's Sphere of Influence was 981,600 in 309,350 households. For 2025, the projected population is 1,260,600 in 397,510 households. The average number of persons per household in San José is approximately 3.20 based on the 2000 census[7].

The City of San José has a low employment base with approximately 0.83 jobs per employed resident according to projections for the year 2010. The proposed project would demolish the existing 116,341 square feet of development on-site and construct approximately 257,296 square feet of new commercial space, an increase of 140,955 square feet over the existing development on-site. The project would create new job opportunities within the City and improve the jobs/housing imbalance. Since the project site has not been used for residential purposes in the past, the proposed project will not displace existing housing or people. Because of the City's low employment base, the creation of new jobs on the project site would not induce substantial population growth.

Implementation of the proposed project would incrementally improve the City's jobs/housing imbalance and would not displace existing housing. **(Beneficial Impact)**

4.1.3 Mitigation and Avoidance Measures for Land Use Impacts

4.1.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. While no significant land use impacts have been identified, any future development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

[7] http://census.abag.ca.gov/cities/SanJose.htm

- *Community Development, Neighborhood Identity, Policy 3* states that public and private development should be designed to improve the character of existing neighborhoods. Factors that cause instability or create urban barriers should be discouraged or removed.

- *Community Development, Balanced Community, Policy 1* states that the City should foster development patterns which will achieve a whole and complete community in San José, particularly with respect to improving the balance between jobs and economic development on one hand, and house resources and a resident work force on the other.

- *Community Development, Commercial Land Use, Policy 1* states that commercial land is San José should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimized the need for automobile travel. New commercial development should be located near existing centers of employment or population or in close proximity to transit facilities and should be designed to encourage pedestrian and bicycle access through techniques such as minimizing building separation from the street, providing safe, accessible, convenient and pleasant pedestrian connections, secure bike storage, etc. Employee intensive uses should be encouraged to locate along multi-modal transit corridors.

- *Community Development, Commercial Land Use, Policy 2* states that new commercial uses should be located in existing or new shopping centers or in established strip commercial areas.

- *Community Development, Commercial Land Use, Policy 5* states that Commercial development should be allowed within established residential neighborhoods only when such development is compatible with the residential development and is primarily neighborhood serving.

- *Community Development, Economic Development, Policy 1* states that the City should reduce the present imbalance between housing and employment by seeking to obtain and maintain an improved balance between jobs and workers residing in San José. A perfect balance between the number of jobs and employed residents may not be achievable but the City should strive to achieve a minimum ratio of 0.80 jobs/employed resident to attain greater fiscal stability.

- *Community Development, Industrial Land Use, Policy 12* states that employee intensive uses should be encouraged to locate near transit facilities.

- *Community Development, Industrial Land Use, Policy 19* states that new industrial 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 and the adjacent public streets.

4.1.3.2 Project Specific Mitigation

No mitigation is required or proposed.

4.1.4 Conclusion

The proposed project would be compatible with all adjacent and nearby land uses and would not significantly impact any designated agricultural lands. With approval of the proposed General Plan amendment and CG(PD) rezoning, the proposed development project would comply with relevant land use policies and regulations. **(Less Than Significant Impact)**

Implementation of the proposed project will result in a net increase in commercial space within the City. Because San José has more workers than available jobs, the project would have a beneficial impact on the City's existing jobs/housing imbalance. **(Beneficial Impact)**

4.2 VISUAL AND AESTHETICS

4.2.1 Existing Setting

4.2.1.1 Visual Character of the Project Site

The project site is located in an existing urban/commercial/industrial area and is developed with two one-story buildings and one two-story building totaling approximately 116,341 square feet. The existing buildings are located on the southern portion of the project site and cover approximately 14 percent of the site. Surface parking lots currently cover approximately 19.5 percent of the site. The northern portion of the site is currently vacant except for a large dirt/debris pile near the eastern property line. The vacant portion of the project site covers approximately 65 percent of the site and is separated from the developed portion by a six-foot chain link fence.

As stated above, there are currently three buildings on the project site, a warehouse, a restaurant, and an office. The warehouse is a two-story concrete structure with no discernable architectural style (see Photo 1) that is located at the eastern boundary of the project site. The warehouse is separated from the other two buildings by a six-foot chain link fence and a large gate.

The restaurant is a one and a half story stucco structure[8] with minimal architectural features and a faux red tile roof.[9] The faux roof hides the rooftop mechanical equipment. The restaurant is located near the southwest corner of the property near the abandoned rail line (see Photo 3) that is proposed to be converted into a trail as part of the project.

The office is a one-story stucco structure that was originally a single-family house (see Photos 4 and 5). The house was moved to the project site in the early 1960s and utilized as storage and office space for the then extant Sun Garden Packing Company. The majority of the landscaping on-site is located around the perimeter of the office building and is dominated by five large palm trees on the north and east sides of the building. The office is located at the northern end of the surface parking lot.

Landscaping is minimal around all three buildings and within the parking areas allowing for views of all the buildings from Monterey Road. The buildings and parking areas are well maintained.

The northern portion of the project site is currently undeveloped (see Photos 6 and 7) except for a large billboard that is located directly adjacent to the back end of the Southern Lumber building and the sidewalk on the east side of Monterey Road.

4.2.1.2 Visual Character of the Project Area

Development in the project area is a combination of commercial and industrial low-rise buildings and housing. The project site is bound by a large two-story retail building (Southern Lumber – a large lumber yard and hardware store) to the north (see Photo 8), a Union Pacific rail line and a large industrial complex to the east (see Photo 9), a one-story concrete commercial building to the south (see Photo 10), and Monterey Road to the west. The street frontage of the Southern Lumber parcel has a small surface parking lot and well maintained mature landscaping. The back of the Southern

[8] There is a small two story section at the southeastern corner of the building which appears to be used as offices for the restaurant.

[9] The tile roof does not extend over the entire building; it is only along the face of the roof overhang on the north, west, and south sides of the building.

Lumber building and the backs of two secondary buildings on the Southern Lumber property abut the project site (as seen in Photo 6).

North of Southern Lumber is E. Alma Avenue, a poorly maintained four-lane roadway. North of E. Alma Avenue is a one-story stucco restaurant building with a pitched red tile roof and well maintained landscaping and a standard one-story concrete and glass light industrial office complex. West of Monterey Road, along the frontage, is a mixture of small one- and two-story commercial businesses including restaurants, motels, a U-Haul rental company, a pet supply store, auto parts stores, furniture stores, and used car lots. Most of these businesses are in good repair with some street front landscaping and well maintained buildings. Immediately behind the commercial businesses is a large single-family neighborhood comprised of small bungalow style houses built in the 1920s and 1930s that have been well maintained. South of the project site, along the east side of Monterey Road, is a mixture of commercial businesses including a motel, restaurants, and a recycling center. As with the businesses on the west side of Monterey Road, most of these businesses are well maintained.

4.2.1.3 Scenic Views and Resources

The project site and the surrounding area are relatively flat and, therefore, the site is only visible from the immediate area. The project area is not located within a designated scenic area or corridor based on the City of San José General Plan. There are no designated scenic views within the project area but the east foothills, which the City recognizes as a scenic resource, are visible intermittently from Monterey Road in locations where no buildings block the view.

4.2.1.4 Light and Glare

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

4.2.2 Visual Impacts

4.2.2.1 Thresholds of Significance

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

- have a substantial adverse effect on a scenic vista;
- substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- substantially degrade the existing visual character or quality of the site and its surroundings; or
- create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.
- increase the amount of shading on public open spaces (e.g., parks, plazas, and/or school yards.

4.2.2.2 Visual and Aesthetics

Approval of the proposed project would allow a 257,296 square foot shopping center to be constructed on a site that is currently developed with a two-story warehouse, a one-story restaurant, and a one-story office. The buildings within the new shopping center are proposed to be a maximum

Photo 1 - View of the existing warehouse, looking east from the on-site parking lot.

Photo 2 - View of the existing restaurant, looking south from the on-site parking lot.

PHOTOS 1 AND 2

Photo 3 - View of the abandoned rail line at the southern end of the project site, looking east from Monterey Road.

Photo 4 - View of the existing office, looking south from the on-site parking lot.

PHOTOS 3 AND 4

Photo 5 - View of the existing office, looking northwest from the on-site parking lot.

Photo 6 - View of the vacant portion of the project site, looking north from the on-site parking lot.

PHOTOS 5 AND 6

Photo 7 - View of the vacant portion of the project site, looking northeast from the on-site parking lot.

Photo 8 - View of Southern Lumber, looking south from E. Alma Avenue.

PHOTOS 7 AND 8

Photo 9 - View of the active rail line east of the project site and the rail easement that will become a new driveway, looking south from E. Alma Avenue.

Photo 10 - View of the abandoned rail line at the southern end of the project site, looking south from the existing restaurant.

PHOTOS 9 AND 10

height of 35 feet with an average height of 25-28 feet but could be up to 45 feet tall under the proposed land use designation. The existing warehouse on-site is approximately 34.5 feet tall at its heights point) and the adjacent Southern Lumber is approximately 30 feet tall. The project as proposed will be comparable in scale to the surrounding development. While the proposed project will increase the building coverage on-site by approximately 15 percent, the lot coverage will be consistent with nearby local commercial uses.

The visual character of the area as viewed from Monterey Road and E. Alma Avenue will be altered with the proposed development. The project will develop a currently underutilized area of the site, remove the unsightly debris pile and a chain link fence that surrounds the vacant area, and plant new landscaping.

Because of the relatively minimal height of the proposed retail buildings, the distance between the project site and the residential neighborhood on the west side of Monterey Road, and the existing intervening commercial buildings between the neighborhood and the project site, the new development will not be visible from the residential neighborhood. In addition, for these reasons the project will not block views of the hillsides or other scenic resources from the single-family neighborhood. The project will, however, further reduce the intermittent visibility of the foothills from Monterey Road. The foothills are not, however, a protected scenic vista and the loss of visibility is not a significant impact. There are no designated scenic resources within the project area.

Development of the site with retail land uses would be compatible with the surrounding development. In addition, the site will be required to be landscaped and the architecture of the buildings must comply with the City's Commercial Design Guidelines. For these reasons, the proposed project will not substantially degrade the existing visual character of the site or result in adverse visual impacts. **(Less Than Significant Impact)**

4.2.2.3 Light and Glare

The project would include outdoor security lighting on the site, along buildings, entrance areas, and throughout the surface parking lots. This outside lighting would comply with the City's Outdoor Lighting Policy and be comparable in brightness to the ambient lighting in the surrounding area. The increase in building density on the site would increase the amount of lighting on the site and its visibility off-site. Increased lighting on the site, relative to the existing outdoor lighting, would increase the level of illumination in the area but not significantly more than that which currently exists at other retail centers within the City. Compliance with the City's lighting requirements would result in a less than significant light and glare impact. **(Less Than Significant Impact)**

4.2.2.4 Shade and Shadow

The proposed retail buildings on the project site will be a maximum height of 35 feet with an average height of 25 to 28 feet. Due to the height of the proposed buildings, the structures will likely shade a small portion of Monterey Road, the back of the Southern Lumber buildings and a small section of the parking lot, and the railroad right-of-way to the south of the project site. The buildings will also shade the railroad right-of-way to the east of the site. The shadows would not preclude people from safely driving on Monterey Road or from using the Southern Lumber parking lot. The shadows will not interfere with railway operations or impact the surrounding land uses in any way. Therefore, the proposed project will have a less than significant shade and shadow impact. **(Less Than Significant Impact)**

4.2.3 Mitigation and Avoidance Measures for Visual and Aesthetic Impacts

4.2.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. While no significant visual/aesthetic impacts have been identified, any future development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

- *Community Development, Urban Design, Policy 1* states that 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.

- *Community Development, Urban Design, Policy 2* states that 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 on-going landscape maintenance.

4.2.3.2 Project Specific Mitigation

No mitigation is required or proposed.

4.2.4 Conclusion

Approval of the proposed General Plan amendment and implementation of the proposed project will result in a less than significant visual impact. **(Less Than Significant Impact)**

4.3 GEOLOGY AND SOILS

4.3.1 Existing Setting

4.3.1.1 Regional Geology

The City of San José is located in the Santa Clara Valley, a relatively flat alluvial basin, bounded by the Santa Cruz Mountains to the southwest and west, the Diablo Mountain Range to the east, and San Francisco Bay to the north. The project site is approximately 105-110 feet above mean sea level (msl).

Based on previous subsurface testing[10], soils on the project site are comprised of hard gravelly silty clay and hard sandy silty clay (down to 14 feet) and medium dense clayey sand and wet dense sand at depths of 14 to 19 feet. Groundwater was found at 10 to 15 feet below the current ground surface. This soil type is characterized by good drainage, moderate shrink/swell[11] potential, and very slow to medium runoff.[12]

Seismicity

The San Francisco Bay Area is classified as Zone 4 for seismic activity, the most seismically active region in the United States. Strong ground shaking can therefore be expected at the site during moderate to severe earthquakes in the general region. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well defined active fault zones of the San Andreas Fault System, which regionally trends in a northwesterly direction.

The project site is located within a seismic hazard zone as designated by the California Division of Mines and Geology (CDMG). The nearest active fault zones to the project site are the Hayward, Monte Vista-Shannon, Calaveras and San Andreas, which are located approximately 5.0 miles east, 8.0 miles southwest, 9.0 miles east, and 12.0 miles southwest of the project site, respectively. During a major earthquake on a segment of one of the nearby faults, strong to very strong shaking is expected to occur at the site. The site is not located within a currently designated Alquist-Priolo Earthquake Fault Zone, or in a Santa Clara County Fault Hazard Zone.

Liquefaction

Liquefaction is the transformation of water-saturated soil from a solid to a liquid state during ground shaking. Soils most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage, such as silty sands and gravels capped by or containing seams of impermeable sediment.

The project site is located within the Santa Clara County liquefaction hazards zone.[13] In the event of a major earthquake, the project site would be susceptible to liquefaction hazards including liquefaction induced settlement.

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[10] Sun Garden Demolition Initial Study, City of San José, March 2002
[11] Soils with shrink/swell potential swell when wet and shrink when drying.
[12] *Soils of Santa Clara County.* 1968
[13] County of Santa Clara Website. Office of Planning, Geologic Hazards Zones. Accessed October 5, 2010. http://www.sccgov.org/portal/site/planning/agencychp?path=%2Fv7%2FPlanning%2C%20Office%20of%20%28DEP%29%2FMaps%20%26%20GIS%2FGeologic%20Hazards%20Zones%28Maps%20%26%20Data%29%2FLiquefaction%20Hazard%20Zones

Lateral Spreading

Lateral spreading occurs when a continuous layer of soil liquefies at depth and the solid layers above move toward an unsupported face, such as a shoreline slope or creek channel, or in the direction of a regional slope or gradient. Lateral spreading is commonly associated with liquefaction.

The project site is relatively flat and is more than one mile from the nearest waterway. Based on these circumstances, the potential for lateral spreading at the project site is low.

Differential Compaction

Differential compaction can occur during strong ground shaking in loose, clean, granular deposits above the water table, resulting in ground surface settlement. The chances of this occurring at the project site are low because soil deposits encountered at the site are sufficiently clayey.

Groundwater

Groundwater exists in the project site and varies in depth between 10 and 15 feet below the current ground surface. Groundwater in the project area generally flows to the south-southwest.

Mineral Resources

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mt. Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. As a result of this process, the topography of the City valley floor is relatively flat and there are no significant mineral resources within the vicinity of the project site.

4.3.1.2 California Building Standards Code

The California Building Standards Code is the California Code of Regulations (CCR), Title 24. The California Building Standards Code is a compilation of three types of building standards from three different origins:

- Building standards that have been adopted by state agencies without change from building standards contained in national model codes;
- Building standards that have been adopted and adapted from the national model code standards to meet California conditions; and
- Building standards, authorized by the California legislature, that constitute extensive additions not covered by the model codes that have been adopted to address particular California concerns.

The project shall be required to conform to the latest adopted California Building Standards Code, as amended by the City of San José, in effect at the time of project approval.

4.3.2 Geologic and Soils Impacts

4.3.2.1 Thresholds of Significance

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

- expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure (including liquefaction), landslides, or expansive soils;
- result in substantial soil erosion or the loss of topsoil;
- expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design and seismic safety techniques.
- 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; or
- 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.

4.3.2.2 Geologic Impacts to the Project Site

The project site is located in a seismically active region and, therefore, strong ground shaking is expected during the lifetime of the proposed project. While no active faults are known to cross the project site, groundshaking on the site could damage buildings and threaten the welfare of future site users. Furthermore, soils on the project site have a high potential for liquefaction. Liquefaction could result in building movement and/or foundation instability that could damage the buildings and threaten with well-being of future site users.

Geologic conditions on the project site will require that the proposed structures be designed and built in conformance with the requirements of the Building Code. Geologic and soils impacts resulting from conditions on the site can be mitigated by utilizing standard engineering and construction techniques. With incorporation of these standard building measures the project will not expose people or property to significant impacts associated with the geologic conditions of the site. Erosion or landslide related hazards will be minimal due to the flat topography of the site.

Buildings will be designed and constructed in accordance with a design-level geotechnical investigation prepared for the site, which identifies specific design features that will be required for the project, including site preparation, compaction, trench excavations, foundation and subgrade design, drainage, and pavement design. The design-level geotechnical investigation shall be reviewed and approved by the City prior to issuance of any building permits for the project.

The proposed project will be built in conformance with the requirements of the Building Code and, therefore, will not expose people or property to significant impacts associated with the geologic conditions of the site. **(Less Than Significant Impact)**

4.3.2.3 Mineral Resources

The proposed project site is within a developed urban area and it does not contain any known or designated mineral resources. Implementation of the proposed project will not result in the loss of

availability of any known mineral resources within the City of San José. **(Less Than Significant Impact)**

4.3.3 Mitigation and Avoidance for Geology and Soils Impacts

4.3.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. While no significant geology or soils impacts have been identified, any future development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

- *Hazards, Earthquakes, Policy 1* states that the City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.

- *Hazards, Earthquakes, Policy 3* states that the City should only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.

- *Hazards, Earthquakes, Policy 5* states that 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.

- *Hazards, Soils and Geology Conditions, Policy 1* states that the City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.

- *Hazards, Soils and Geologic Conditions, Policy 6* states that development in areas subject to soils and geologic hazards should incorporate adequate mitigation measures.

4.3.3.2 Project Specific Mitigation

No mitigation is required or proposed.

4.3.4 Conclusion

Approval of the proposed General Plan amendment and implementation of the proposed project will have a less than significant geologic and soils impact. **(Less Than Significant Impact)**

4.4 HYDROLOGY AND WATER QUALITY

The following information is based in part on a Stormwater Control Plan prepared by *Kier & Wright*, which is in the plan set on file at the City of San José Planning Department.

4.4.1 Existing Setting

4.4.1.1 Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map No. 06085C0253H, dated May 18, 2009), the project site is within Zone AH. Flood Zone AH is defined as areas of one percent annual chance flood with average depths of one to three feet, usually with areas of ponding.

4.4.1.2 Storm Drainage System

The City of San José owns and maintains the storm drainage system which serves the project site. The project site currently drains into a 36-inch stormdrain line in Monterey Road. The storm drainage lines discharge into Guadalupe River located approximately 3,800 feet west of the site.

4.4.1.3 Water Quality

The water quality of Guadalupe River is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes.

Currently, Guadalupe River is listed as a Category 5 impaired waterway on the California 303(d) list[14]. A Category 5 impaired waterway requires a development of a Total Maximum Daily Load (TMDL) schedule.[15] The Guadalupe River is a Category 5 impaired waterway because it contains high levels of Diazinon (a synthetic chemical uses in industrial and household insecticides), mercury (from mine tailings), and trash. The USEPA has approved the Diazinon TMDL for the Guadalupe River but the TMDL for mercury and trash is still pending.[16]

Nonpoint Source Pollution Program

In 1988 the State Water Resources Control Board (SWRCB) adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment of 1990. The Nonpoint Source Management Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by the RWQCB under the NPDES General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

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

[15] A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

[16] State Water Resources Control Board Web Site. http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml Accessed November 23, 2010.

- they disturb one acre or more of soil; or
- they disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activities requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

Municipal Regional Stormwater NPDES Permit

The Federal Clean Water Act required the City of San José to operate under a Municipal Stormwater NPDES Permit for the discharge of stormwater from urbanized areas to surface waters via the City's stormwater collection system. On October 14, 2009, the RWQCB adopted the Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) for the San Francisco Bay Region. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 76 Bay area municipalities, including the City of San José.

Under the Municipal Regional Stormwater NPDES Permit, all new and redevelopment projects that result in the addition or replacement of impervious surfaces totaling 10,000 square feet or more must 1) include stormwater treatment measures; 2) ensure that the treatment measures be designed to meet the hydraulic sizing design criteria as required in Provision C.3 of the Municipal Regional Stormwater NPDES Permit; and 3) ensure that stormwater treatment measures are properly installed, operated, and maintained.

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

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy No. 6-29 requires all new and redevelopment project to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Hydromodification

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

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

The City of San José's Policy No.8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all

new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed that is greater than or equal to 65 percent impervious.[17] The project must, however, comply with Policy 8-14 as it is applicable at the Development Permit stage.

4.4.1.4 Groundwater

Based on previous data from the project site, groundwater would likely be found at a depth of approximately 10 to 15 feet bgs. Groundwater levels will typically fluctuate seasonally depending on the variations in rainfall, irrigation from landscaping, and other factors. The project site does not substantially contribute to the recharging of the groundwater aquifer.

4.4.2 Hydrology and Water Quality Impacts

4.4.2.1 Thresholds of Significance

For the purposes of this EIR, a hydrology, drainage, or flooding impact is considered significant if the project would:

- violate any water quality standards or waste discharge requirements;
- substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted);
- substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
- substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site;
- create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;
- otherwise substantially degrade water quality;
- place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map;
- place within a 100-year flood hazard area structures which would impede or redirect flood flows;
- expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or

[17] San Francisco Bay Regional Water Quality Control Board web site http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/mrp.shtml Accessed November 11, 2010.

- inundation of the site by seiche, tsunami, or mudflow.

4.4.2.2 Flood Impacts

Based on the FEMA flood insurance rate maps, the site is denoted as an area of one percent annual chance flood with average depths of one to three feet, usually with areas of ponding. The proposed project is a retail center so the project will not place housing within a 100-year floor plain. The proposed buildings will be elevated approximately three feet above the ground surface in accordance with the City's Floodplain Management Ordinance as amended (February 2006). Compliance with the City's Floodplain Management Ordinance will avoid any significant risk to persons or buildings of loss, injury, or death due to flooding on-site. Furthermore, the project would not impede or redirect flood flows to other properties.

The proposed project site is located approximately 9.4 miles south of the San Francisco Bay and is at an elevation of 105 feet above sea level. As a result, the project site would not be subject to inundation by a seiche, tsunami, or mudflow.

Implementation of the proposed project will not subject people or new commercial development to flooding hazards. **(Less Than Significant Impact)**

4.4.2.3 Storm Drainage Impacts

Table 1, below, gives a breakdown of the pervious and impervious surfaces on the project site under both existing and project conditions. The project site is currently about 34 percent impervious. The 66 percent pervious area is comprised mostly of the vacant area on the northern portion of the site.

Implementation of the proposed project will increase the amount of impervious surfaces on-site by approximately 53 percent. This increase will cause a substantial increase in the amount of stormwater entering the existing storm drainage system.

TABLE 1
Pervious and Impervious Surfaces On-Site (by square footage)

Site Surface	Existing Conditions	%	Project Conditions	%	Net Difference	%
Impervious						
Building Footprint	118,662	14.0	246,796	29.0	+128,134	+15.0
Parking/Driveways	167,434	19.5	464,691	54.0	+297,257	+34.5
Sidewalks/Patios/Pathways	3,130	0.50	34,403	4.0	+31,273	+3.5
Subtotal	289,226	34.0	745,890	87.0	+456,664	+53.0
Pervious						
Landscaping	570,855	66.0	114,191	13	-456,664	-53
Total	860,081	100	860,081	100		

Implementation of the proposed project would result in a mix of paved and landscaped surfaces. Under existing conditions, approximately 34 percent of the project site is impervious. The proposed project will result in approximately 745,890 square feet (approximately 87 percent) of the project site being covered in impervious surfaces, an increase of 53 percent. As a result, the proposed project would increase the demands upon the storm drainage system compared to the current land use, but

would be not exceed the capacity of the stormdrain lines that serve the project site.[18] **(Less Than Significant Impact)**

4.4.2.4 Water Quality Impacts

Operational Impacts

Implementation of the project will result in a substantial increase in potential stormwater pollutant loads due to an approximately 53 percent increase in impermeable surfaces (including new roofing and paving materials) on-site. The project site will contribute the same types of stormwater runoff pollutants as the existing development. Runoff from streets and parking areas often carries grease, oil, and trace amounts of heavy metals into natural drainages. Runoff from landscaping can carry pesticides, herbicides, and fertilizers. Although the amounts of these pollutants ultimately discharged into the waterways are unknown, over time they could be substantial.

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 1, above. The existing project site is approximately 860,081 square feet[19], of which approximately 34 percent is currently comprised of impervious surfaces. The proposed project will increase impervious surfaces on-site by approximately 456,664 square feet. The project will result in a substantial net increase in impervious surfaces on the site, so implementation of the proposed project will increase the amount of runoff and pollution flowing into the storm drain system.

In addition to the increased pollutant load in stormwater runoff, the proposed project will add or replace more than 10,000 square feet of impervious surfaces, so it must conform to the version of Council Policy 6-29 in place at the time a development permit application is filed. It must also meet the requirements of the Municipal Regional Stormwater NPDES permit. Conformance is illustrated in the Conceptual Stormwater Control Plan and will be finalized in the final Stormwater Control Plan at the Development Permit stage of this project. Plans will be certified by engineers to ensure incorporation of appropriate and effective source control measures to prevent discharge of pollutants, design measures to reduce impervious surfaces, and treatment control measures to remove pollutants from runoff. In order to meet City's and the NPDES requirements, the project proposes the following measure to reduce runoff pollutant loads:

- The pathways, driveways, surface parking lots and rooftop runoff will drain into five vegetative swales on the north, west, and south sides of the project site.

The proposed treatment facilities will have sufficient capacity to treat all the stormwater runoff entering the storm drainage system. In addition, the project will be required to maintain all post-construction treatment control measures throughout the life of the project.

With implementation of the project's proposed Stormwater Control Plan, the project will not violate any adopted waster quality standards or waste discharge requirements. Runoff will be routed directly from the treatment facilities to the storm drainage system and will not flow off-site. The project is not located in proximity to any creeks or other water bodies, would not result in substantial erosion or siltation on or off-site, and would not substantially alter existing drainage patterns or cause localized flooding on or off site. Furthermore, because the site is located within a subwatershed or catchment that is greater than or equal to 65 percent impervious, the increase in runoff will not affect the course of any local stream or river or result in an increase in erosion or siltation on or off site.

[18] Personal Communication. Vivian Tom, Civil Engineer I/II, Department of Public Works, City of San José.
[19] One acre equals 43,560 square feet.

The proposed treatment systems, combined with the Best Management Practices (BMPs) listed in Section 4.4.3 below, will result in a less than significant impact on water quality. **(Less Than Significant Impact)**

Construction Impacts

Construction will involve demolition, excavation and grading activities at the project site. These construction activities could degrade water quality in Guadalupe River because the existing on-site storm drainage system discharges directly into this waterway. Construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that would temporarily contaminate runoff from the site.

Impact HYD-1: Construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that would temporarily contaminate runoff from the site. **(Significant Impact)**

4.4.2.5 Groundwater Impacts

The proposed project will have more impermeable surface area than the existing condition and will no longer contribute to the recharging of the groundwater aquifers, but would not substantially interfere with groundwater recharge in the area. Implementation of the project site will not interfere with groundwater flow or expose any aquifers. The water supply for the project site will not be met from the underlying groundwater supply and, as a result, the project will not deplete the existing groundwater supply or impact the groundwater aquifer. **(Less Than Significant Impact)**

4.4.3 Mitigation and Avoidance Measures for Hydrology Impacts

4.4.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. Development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

- *Services and Facilities, Level of Service, Policy 8* states that the operation of the Water Pollution Control Plant should comply with the water quality standards for the South San Francisco Bay established by the Regional Water Quality Control Board and implemented through NPDES (National Pollution Discharge Elimination System) permits.

- *Services and Facilities, Storm Drainage and Flood Control, Policy 12* states that new amendments should be designed to minimize potential damage due to stormwaters and flooding to the site and other properties.

- *Natural Resources, Water Resources, Policy 12* states that for all new discretionary development permits for amendments incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

- *Hazards, Flooding, Policy 1* states that new development should be designed to provide protection from potential impacts of flooding during the one percent or 100-year flood.

- *Hazards, Flooding, Policy 7* states that the City should require new urban development to provide adequate flood control retention facilities.

4.4.3.1 Construction Impacts

The following project-specific mitigation measures, based on RWQCB BMPs, have been included in the project to reduce construction-related water quality impacts. All mitigation will be implemented prior to the start of earthmoving activities on-site and will continue until the construction is complete.

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.

- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

- Vegetation in disturbed areas shall be replanted as quickly as possible.

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

- A Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB mitigation.

- The project proponent will submit a copy of the NOI and draft SWPPP to the City of San José for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.

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

4.4.3.2 Operational Impacts

The following measures, based on RWQCB BMPs, have been included in the project to further reduce post-construction water quality impacts:

- As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project will implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, litter control, and other activities as specified by the City) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping.

The following additional project specific mitigation measures have been included in the project to reduce storm water impacts:

- The proposed project will be required to ensure continued maintenance and performance of all post-construction treatment control measures per City Council Policy 6-29.

- 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.

4.4.4 Conclusion

With implementation of the identified General Plan policies and mitigation measures listed above, the project will result in less than significant impacts on storm water quality. The project will not deplete the groundwater supply, substantially alter the existing drainage pattern, substantially degrade water quality, or subject residents to flood hazards or increase storm water runoff beyond the capacity of the existing stormwater drainage system. **(Less Than Significant Impact with Mitigation)**

4.5 VEGETATION AND WILDLIFE

The following information is based in part on a tree survey prepared by *Concentric Ecologies* in August 2010 (see Appendix A).

4.5.1 Regulatory Setting

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

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

4.5.2 Existing Setting

4.5.2.1 Overview of Habitat Found on the Project Site

The southern portion of the project site is developed with three industrial/commercial buildings totaling 116,341 square feet. The northern portion of the site is currently a vacant dirt lot. Due to the historical development of the project site (i.e., cannery and industrial/commercial) there is no native vegetation or natural habitat on-site. Vegetation on the project site consists of street trees, landscape trees around the existing buildings and throughout the parking lots, and very sparse ruderal (i.e., weedy) vegetation on and around the perimeter of the dirt lot.

4.5.2.2 Special Status Species

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

4.5.2.3 Trees

The City of San José defines ordinance size trees as all trees having a trunk that measures 56 inches or more in circumference (equivalent to approximately 18 inches in diameter) at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. The City's Tree Removal Controls (San José City Code Section 13.32) require a permit for the removal of ordinance size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy Heritage trees. The City typically requires that all trees on a project site be

inventoried and categorized according to size, species, and condition prior to issuance of any approval or permit for construction or any improvements.

There are 39 trees that could be impacted by the proposed project; 28 of the trees are located on the project site and 11 are City owned street trees along Monterey Road. The proposed project would remove all 28 trees on the project site, including four ordinance size trees. The street trees would not be removed.

The following table lists all trees identified on the site during the tree survey. Ordinance sized trees are designated in **bold**. The location of the trees is shown on Figure 8.

TABLE 2
Tree Survey

Tag No.	Tree Type	Diameter	Circumference	Health
814	Sycamore	16	50	Average
815	Sycamore	15	47	Average
816	Sycamore	14	44	Average
817	Fan Palm	15	47	Average
818	Australian Willow	15	47	Fair
819	Australian Willow	15	47	Fair
820	**Fan Palm**	**18**	**57**	**Average**
821	Fan Palm	17	53	Average
822	**Fan Palm**	**18**	**57**	**Average**
823	Fan Palm	17	53	Average
824	**Fan Palm**	**18**	**57**	**Average**
825	Sycamore	16	50	Average
826	**Australian Willow**	**19**	**60**	**Fair**
827	Sweet Gum	2	6	Poor
828	Sweet Gum	5	16	Fair
829	Sweet Gum	5	16	Fair
830	Sweet Gum	5	16	Fair
831	Ash	9	28	Poor
832	Sweet Gum	6	19	Fair
833	Ash	11	35	Average
834	Ash	9	28	Average
835	Ash	8	25	Average
836	Ash	8	25	Average
837	Ash	7	22	Average
838	Ash	9	28	Average
839	Ash	11	35	Average
840	Ash	4	13	Fair
841	Ash	9	28	Average
842	Sweet Gum	6	19	Fair
843	Sweet Gum	4	13	Fair
844	Sweet Gum	4	13	Fair
845	Sweet Gum	2	6	Fair
846	Sweet Gum	2	6	Fair
847	Sweet Gum	4	13	Fair

TREE SURVEY

FIGURE 8

TABLE 2 *Continued* Tree Survey				
Tag No.	**Tree Type**	**Diameter**	**Circumference**	**Health**
848	Sweet Gum	3	9	Fair
849	**Yucca**	**38**	**119**	**Average**
850	**Yucca**	**32**	**101**	**Average**
851	Sycamore	10	31	Average
852	Sycamore	12	38	Average

4.5.3 Vegetation and Wildlife Impacts

4.5.3.1 Thresholds of Significance

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

- have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- have a substantial adverse effect on any aquatic, wetland, or riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

4.5.3.2 Vegetation, Habitats, and Wildlife Impacts

The project site is partially developed and the vacant portion of the site is heavily disturbed and currently used for construction material storage. Vegetation on the project site consists solely of landscape trees, street trees, and sparse ruderal vegetation. The project site is not subject to an adopted HCP, NCCP, or other local, regional, or state habitat conservation plan. Because of the history of development on-site, no natural or sensitive habitats (including federally protected wetlands, riparian habitat, or other sensitive natural communities identified in local or regional plans or by the California Department of Fish and Game or US Fish and Wildlife Service) exist that would support endangered, threatened, or special status wildlife species. As a result, no significant vegetation and wildlife impacts are anticipated to occur except for possible impacts to migratory birds, raptors, and their nests due to the loss of mature trees.

While the site is in an urbanized area, there are a few large trees on-site that may provide perching or nesting habitat for raptors, such as falcons, hawks, eagles, owls, and other migratory birds. There is more abundant vegetation and mature trees in other locations in the project area and within the nearby Guadalupe River riparian corridor (approximately 0.8 miles west of the project site). As a result, the habitat value on-site for migratory birds is low. Nevertheless, the large trees on-site could be primary nesting and foraging habitat for local and migratory birds.

Nesting raptors are among the species protected under both provisions of the Migratory Bird Treaty Act and California Department of Fish and Game (CDFG) Code Sections 3503, 3503.5, and 2800. Tree removal, demolition and construction disturbance near raptor or other migratory bird nests can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFG. Any loss of fertile eggs, nesting raptors or other migratory birds, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities could result in the abandonment of active raptor nests or destruction of other migratory bird's nests. **(Significant Impact)**

4.5.3.3 Tree Impacts

The project proposes to remove all of the existing trees on-site. Construction of the proposed project would result in the removal of four ordinance sized non-native trees and 24 non-ordinance sized trees, most of which are non-native species. The 11 street trees will not be removed. The guidelines set forth by the City of San José defines the loss of trees a significant impact when 10 or more native trees are removed, and/or 20 or more non-native trees are removed. Therefore, the loss of trees on-site is a significant impact.

Impact BIO-2: Implementation of the proposed project will result in the loss of 28 trees on the project site. **(Significant Impact)**

Impact BIO-3: Construction of the proposed project could damage the existing street trees which are proposed to be retained. **(Significant Impact)**

4.5.4 Mitigation and Avoidance Measures for Biology Impacts

4.5.4.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects to biological resources resulting from planned development within the City. The following General Plan policies would reduce impacts to trees and migratory birds:

- *Urban Forest Policy 2* states that development projects should include the preservation of ordinance-sized, and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the amendment should include appropriate tree replacement.

- *Urban Forest Policy 3* states that the City should encourage the maintenance of mature trees on public and private property as an integral part of the urban forest. Prior to allowing the removal of any mature trees, all reasonable measures that can effectively preserve the tree should be pursued.

- *Urban Forest Policy 4* states that 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* states that 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 power lines, and diversity and sustainability of the urban forest.

- *Urban Forest Policy 6* states that trees used for new plantings in urban areas should be selected primarily from species with low water requirements.

4.5.4.2 Migratory Birds

The following project specific mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory bird's nests:

- Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February through August.

- If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet for raptors and 50-100 feet for other birds, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

4.5.4.3 Trees

The project shall implement the following mitigation measures to avoid impacts to trees in accordance with City of San José Tree Removal Controls (San José Municipal Code Title 13 Chapter 13.32):

Tree Removal

- All trees that are to be removed shall be replaced at the following ratios:

TABLE 3
Tree Replacement Requirements

Diameter of tree to be Removed	Native	Non-Native	Minimum Size of Each Replacement Tree
18.0 inches or greater (56.0 Inches Circumference)	5:1[20]	4:1	24-inch box
12 – 18.0 inches (38 – 56.0 Inches Circumference)	3:1	2:1	24-inch box
Less than 12 inches (Less than 38 Inches Circumference)	1:1	1:1	15-gallon container
Note: 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.			

- It is estimated, based on the site plan, that landscaping proposed by the project will include a sufficient number of trees to offset the loss of trees removed by the project. The species and exact number of trees to be planted on the site and on the street as part of the project will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement at the development permit stage. In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:
  - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
  - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement.
  - A donation of $300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

- The project proponent will prepare the final landscape plan and submit it the Director of Planning, Building and Code Enforcement for approval prior to issuance of a Planned Development permit.

The project shall implement the following measures to avoid impacts to existing street trees:

[20] X:X = tree replacement to tree loss ratio.

Tree Preservation – Pre-Construction

- The applicant shall retail a consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.

- Fence all trees to be retained to completely enclose the tree protection zone prior to demolition, grubbing, or grading. Fences shall be six-foot chain link or equivalent as approved by the consulting arborist. Fences will remain in place until all grading and construction is complete.

- Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed or supervised by a Certified Arborist and adhere to the Best Management Practices for Pruning of the International Society of Arborists.

Tree Preservation – During Construction

- A certified arborist will establish a tree protection zone for each of the street trees prior to start of construction. No grading, construction, demolition or other work shall occur within the tree protection zone. Any modification to the tree protection zone must be approved and monitored by the consulting arborist.

- Any root pruning or canopy pruning required for construction purposes shall receive the prior approval of, and be supervised by, the consulting arborist.

- Any additional tree pruning needed for clearance during construction must be performed or supervised by the consulting arborist and not by construction personnel.

- Supplemental irrigation shall be applied as determined by the consulting arborist.

- If injury should occur to any tree during construction, work will stop in the area around the tree and the damage shall be evaluated by the consulting arborist so that appropriate treatments can be applied.

- No materials or liquids of any kind can be dumped or stored within the designated tree protection zones.

- As trees withdraw water from the soil, expansive soils may shrink within the root area. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement.

4.5.5 Conclusion

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

4.6 HAZARDS & HAZARDOUS MATERIALS

The following information is based on a Phase I Environmental Site Assessment prepared by *Cornerstone Earth Group* in August 2010. The report can be found in Appendix B of this document.

4.6.1 Existing Setting

For the purposes of this discussion, the project site has been divided into four areas. Area 1 is the portion historically occupied by the Sun Garden Packing Company on the eastern half of the project site. Area 2 is the northern half of the Monterey Road frontage, including the existing office. Area 3 is the southern half of the Monterey Road frontage, including the existing restaurant. Area 4 is the Union Pacific Rail Road (UPRR) right-of-way (ROW) at the eastern and southern boundaries of the project site. These areas are shown graphically on Figure 9.

The proposed project site is located in an area of San José that is developed with industrial, commercial, and residential land uses. The project site is relatively flat with a slight incline from south to north. The elevation of the site is approximately 105 to 110 feet above mean sea level. Groundwater is found 13 to 16 feet below the ground surface (bgs). Groundwater flow is atypical as groundwater flows in more than one direction. Prior data from on-site studies indicate that for most of the site groundwater flow is to the south-southwest. A easterly groundwater flow has also been reported on the southern portion of the site near the existing restaurant.

4.6.1.1 Historical Uses of the Project Site

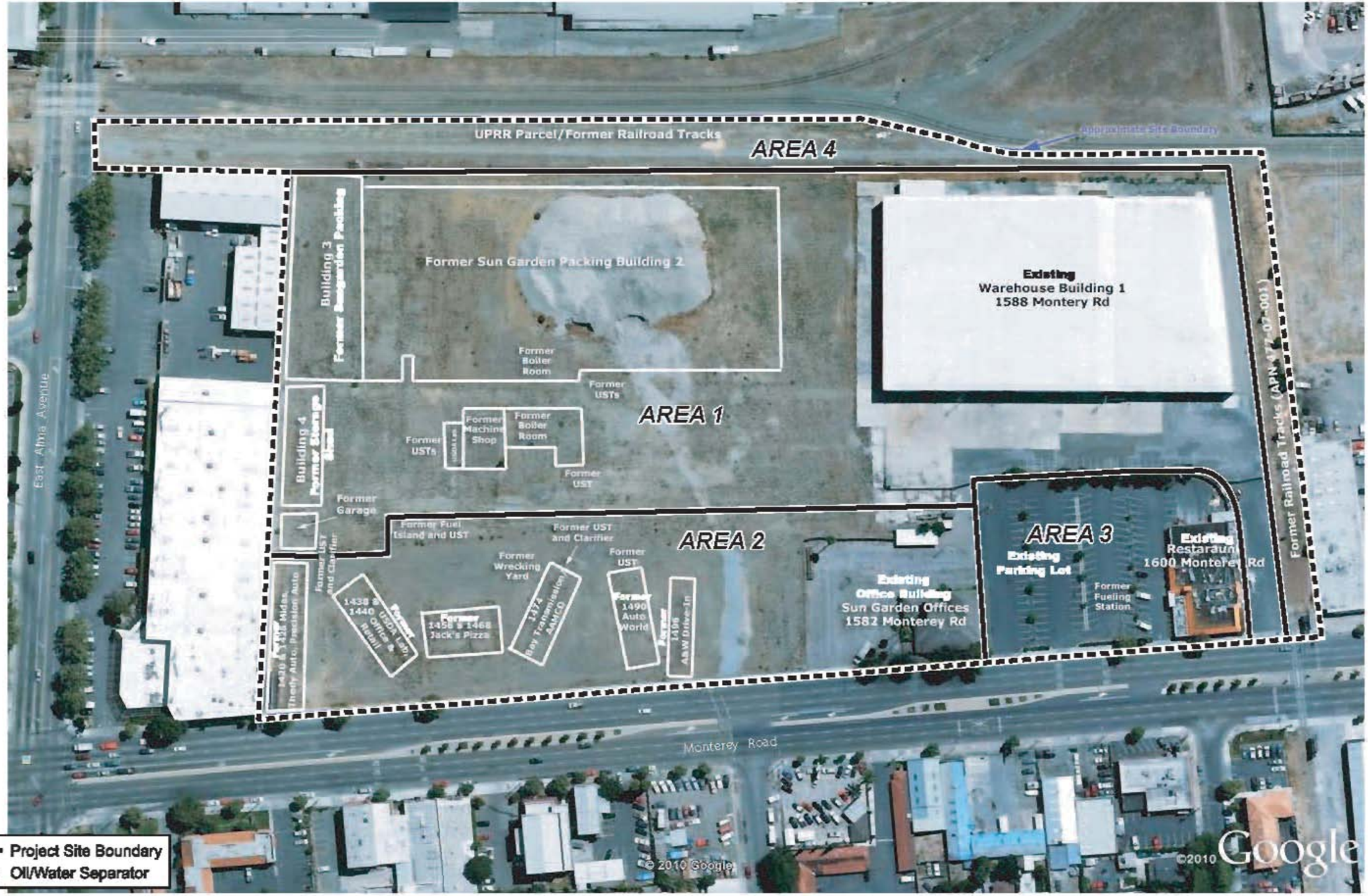
Area 1: Sun Garden Packing Company

Based on available historic documents, Area 1 of the project site was developed with a cannery building (Bisceglia Brothers) by 1915. It was also occupied by a portion of a pasture and a corral, and two sheds. Two stand-alone structures, labeled machine shop and auto on the Sanborn map, are located between the cannery and the pastureland. Use of the site prior to 1915 is unknown, but it is reasonable to assume that the site was undeveloped or used as pastureland.

By 1939, there are several structures in Area 1 including the main (original) cannery building and warehouses for cannery operations. Several cannery cottages (i.e., worker housing) were also constructed by this time. A portion of the cottages were located in Area 1.

Based on the 1950 Sanborn map, Area 1 was still developed with the original cannery buildings, which had been added to and expanded by this time. Sun Garden Packing Company, Dry Pack Corporation, and Mayfair Parking Company all occupied the cannery buildings in Area 1. An auto wrecking yard was located adjacent to the cannery cottages. Between the cannery buildings and the cottages was the tool room, machine shop, boiler room, pipe room and other out buildings for cannery operations. There were also several structures at the southeast corner of the site occupied by Security Truck Line for warehouse and storage purposes.

By 1961, the cannery buildings were completely occupied by Sun Garden Parking Company, but little else of the cannery had changed since 1950. The southeast corner of the site is occupied by several buildings used predominately as warehouses and storage for Consolidated Terminals.



LOCATIONS OF DOCUMENTED HISTORIC HAZARDS

FIGURE 9

Between 1961 and 1966, the Consolidated Terminals buildings were demolished and the extant warehouse was constructed for use by Sun Garden Packing Company. The remaining portion of Area 1 was the same was it was in 1961.

In 2002, the remaining buildings in the northern portion of Area 1 were demolished and the site has remained vacant since. The warehouse at the northeast corner was not demolished and still remains on-site. The warehouse was occupied by a chip manufacturer from 2001 to 2003 and the San José Police Department took over the building in 2003.

Area 2: Northern Monterey Road Frontage

Based on available historical data, by 1915 the northern Monterey Road frontage was developed with a portion of the pasture and corral that was identified in Area 1. By 1939, Area 2 was developed with the remaining portion of the cannery cottages identified in Area 1.

Based on the 1950 Sanborn map, Area 2 was still developed with cannery cottages at this time. A portion of an auto wrecking yard is also located in Area 2, adjacent to the cottages. The remainder of Area 2 is developed with a glazing shop, auto parts storage, a freight depot, and truck repair building.

By 1961, the cannery cottages had been converted into a motel. The auto wrecking yard and auto repair structure were still located adjacent to and south of the cottages. The still extant Sun Garden office building at 1582 Monterey Road was moved to the site at this time.

Between 1961 and 1966, the motel and the auto wrecking yard were demolished. The auto repair building was still on-site at this time.

By 1973, additional automotive businesses were located in Area 2 along with one or more restaurants.

In 2002, the remaining buildings in Area 2 were demolished, with the exception of the extant office, and the site has remained vacant since.

Area 3: Southern Monterey Road Frontage

There is no historical data for this portion of the project site prior to 1939. By 1939, a structure was constructed at the corner of the property that was occupied by Shippers Express Company. By 1948, a fueling station was also located on this portion of the project site.

Based on the 1961 Sanborn map, several buildings occupied Area 3 including facilities for truck repair, offices, and tire storage for Shippers Express Company. The fueling station was still located in Area 3 at this time.

By 1973, the Shippers Express Company buildings and the fueling station had been removed and the extant restaurant was constructed. The 1973 site conditions for Area 3 are similar to the existing on-site conditions.

Area 4: Union Pacific Railroad Right of Way

Railroad tracks are shown within the UPRR ROW in 1915 with a rail spur that extended from the main ROW to the east side of the cannery building. By 1950, an additional rail spur is located on-site that also extended along the east side of the cannery buildings, south of the original rail spur.

By 1961, two additional rail spurs, on the east side of the Consolidated Terminals warehouse structures had been constructed.

Existing conditions in Area 4 are comparable to 1961 conditions.

4.6.1.2 On-Site Sources of Contamination

Area 1

The cannery had a variety of underground storage tanks (UST) on-site as well as a boiler and an oil/water separator. Table 4 below outlines identified sources of contamination in Area 1. UST locations where no contamination was found are described below. Referenced contamination locations can be found on Figure 9.

TABLE 4
On-Site Sources of Contamination in Area 1

Identified Hazard	Location	Contaminates	Status
8,000 gallon fuel UST	1582 Monterey Road – Southwest corner of the former boiler room	Petroleum hydrocarbons[21]	In 1997, the UST was removed and the contaminated soil over-excavated. The pit was backfilled with clean imported soil and bio-remediated soil. Regulatory closure in 2002
12,000 gallon gasoline UST Five 12,000 gallon diesel USTs	1582 Monterey Road – Near the boiler room at the northern end of the USDA lab.	Petroleum hydrocarbons	In 1991, the USTs and associated pump island and piping were removed and impacted soil was excavated. Concentrations of residual hydrocarbons were left in place Regulatory closure in 2002
5,000 gallon oil UST 5,000 gallon diesel UST	1582 Monterey Road – Under Building 2	Petroleum hydrocarbons, motor oil, and grease.	In 2002, the two USTs were removed and the soil excavated. Concentrations of hydrocarbons were left in place Regulatory closure in 2002

Near the southwest corner of Building 4 (1582 Monterey Road) were an oil/water separator and a 300 gallon UST. The separator and UST were removed in 1997 and the soil in the area was over-excavated. Subsequent soil samples found no petroleum hydrocarbons. Nevertheless, the removed soil was bio-remediated and used to backfill the pit.

[21] Petroleum hydrocarbons is a term used to describe a large family of several hundred chemical compounds that originally come from crude oil.

Along the eastern wall of Building 1 was a hazardous materials storage area. In 1997, soil samples were collected at 1.5 to two feet bgs to determine if any contamination resulted from the storage of hazardous materials. No hazardous materials were detected.

Two previously active on-site municipal/industrial water supply wells were present on-site. A case closure letter (2002) from the Santa Clara Valley Water District (SCVWD) states that these two wells were destroyed in accordance with District Guidelines.

Area 2

The former auto related businesses had a variety of USTs on-site as well as an oil/water separator. Table 5 below outlines identified sources of contamination in Area 2. Areas that were tested but where no contamination was found are described below.

TABLE 5
On-Site Sources of Contamination in Area 2

Identified Hazard	Location	Contaminates	Status
Oil/water separator 500 gallon waste oil UST	1474 Monterey Road – Bay Transmission Building	Petroleum hydrocarbons	In 1989, the UST was removed and the contaminated soil excavated. Concentrations of residual hydrocarbons were left in place. Regulatory closure in 2002

The former Auto World building (1490 Monterey Road) has a 500 gallon gasoline UST. The UST was removed in 0989 and soil samples were taken. No contamination was detected in the surrounding soil. This located received regulatory closure in 2002.

A building located at 1598 Monterey Road (not shown on Figure 9) was used by the cannery for lead solder dross. The Department of Toxic Substances Control (DTSC) approved a closure plan for this location which was subsequently implemented.

Area 3

The existing restaurant site (1600 Monterey Road) was historically occupied by a fueling facility. Testing in this area has indicated that the fuel tanks associated with the fueling station have been removed. Soil and groundwater sampling in 1997 and 1998 found concentrations of petroleum hydrocarbons, toluene, and benzene. Clean up of the site was implemented and SCVWD issued a case closure letter in 2001. SCVWD noted that residual contamination in both the soil and groundwater remains on-site and could be exposed during future site development. Disturbance of soil in this location would need to be assessed and appropriate action taken. Three groundwater monitoring wells at this location are still in place.

Area 4

The UPRR property east of the project site has been utilized as a railroad since at least 1915. Soil samples found no traces of volatile organic chemicals (VOCs) but pesticides and ppolychlorinated biphenyl (PCBs) were found. The pesticides were found below all screening levels. PCBs were

found at 0.251 ppm which is just below the commercial CHHSL of 0.3 ppm. Nickel was found above background levels but below the commercial CHHSL. Lead was found at 144 ppm which is below the commercial CHHSL of 320 ppm. Arsenic was found at concentrations above background levels and above commercial screening levels.

There are no records of soil sampling conducted along the former rail line south of the site or along the rail spurs on-site.

Asbestos and Lead Based Paint

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and siding made with cement. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. Use of friable asbestos products was banned in 1978.

In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. The existing buildings on-site were constructed prior to 1980. Because the buildings on the project site were constructed prior to 1980 it is possible that ACMs and/or lead based paints are present in some or all of the remaining structures.

4.6.1.3 Historical Land Uses Surrounding the Project Site

Southern Lumber, located at the northern boundary of the project site, has been in business since at least 1915, the same year the original cannery building was constructed. The land east of the UPRR railroad tracks was undeveloped grazing land until the current industrial buildings were constructed in the 1940s and 1950s. Monterey Road was constructed prior to development of the project site. The land west of Monterey Road has been developed with residential and commercial buildings since the 1930s. The property south of the project site was developed with a bulk fuel terminal from the 1930s until the 1970s.

4.6.1.4 Off-Site Sources of Soil and Groundwater Contamination

Based on a review of incident reports in the project area and assumed groundwater flow direction, no off-site facilities have been reported that would significantly impact groundwater beneath the project site.

4.6.2 Hazardous Materials Impacts

4.6.2.1 Thresholds of Significance

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

- create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;

- create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment;
- for a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area;
- for a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area;
- impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

4.6.2.2 On-Site Hazards

Commercial/Industrial Land Uses (Areas 1, 2, and 3)

Previous studies of the project site (between 1986 and 2002) determined that past occupants used and stored a variety of hazardous materials on-site, many of which were stored in USTs. Leaking USTs and oil/water separators caused soil and groundwater contamination throughout the site. The SCVWD ultimately issued case closure letters for three leaking UST cases covering 12 USTs. The closure letters state that residual contamination exists in the soil and groundwater at the site and this contamination could be exposed during site development activities such as grading or excavation. The closure letters state that if the residual contamination is disturbed, the SCVWD must be notified and an appropriate health and safety plan prepared. The Santa Clara County Department of Environmental Health (SCCDEH) is the now the responsible agency for review and oversight. As such, the SCCDEH would be the agency notified if the residual contamination is disturbed.

In addition to the USTs, the previous automotive related facilities on-site resulted in shallow soil contamination of petroleum hydrocarbons, particularly in the area of the wrecking yard.

While substantial clean-up work has been completed on-site, residual contamination remains in the soil.

Impact HAZ-1: Redevelopment of the project site could expose construction workers to residual contamination in the soil from previous land uses. **(Significant Impact)**

Railroad Tracks (Area 4)

Assorted chemicals have historically been used for dust suppression and weed control along the rail lines. In addition, wooden rail ties typically contain toxic preservatives. As stated in Section 4.6.1.2, arsenic is the primary contaminant around the eastern railroad tracks.

There are no records of soil sampling conducted along the former rail line south of the site or along the rail spurs on-site so the level of contaminants in these areas is unknown. It is reasonable to assume, however, that the southern rail line and on-site rail spurs would have shallow soil contamination at levels comparable to the eastern rail line.

Impact HAZ-2: Development of the project site could expose known arsenic contaminated soil and undocumented contamination. **(Significant Impact)**

Asbestos

Non-friable ACMs are likely to be present in the buildings on the project site. The project proposes to demolish the existing buildings which could release asbestos particles and expose construction workers and nearby building tenants to harmful levels of asbestos. All potentially friable ACMs would be removed in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to building demolition. All demolition activities would be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from exposure to asbestos. A registered asbestos abatement contractor would be retained to remove and dispose of ACMs identified in accordance with the standards stated above.

Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos would be completed in accordance with BAAQMD requirements.

Removal of ACMs in compliance with State law and other applicable regulations will have a less than significant impact. **(Less Than Significant Impact)**

Lead Based Paint

Demolition of the aforementioned buildings, which also likely contain lead-based paint, could create dust at concentrations which would expose construction workers to potential health risks. State regulations require that air monitoring be performed during and following renovation or demolition activities at sites containing lead-based paint. Appropriate modifications to renovation/demolition activities would be required if airborne lead levels exceed the current Federal Occupational Safety and Health Administration (OSHA) action level of 30 micrograms per cubic meter ($\mu g/m^3$). The requirements outlined by Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR 1532.1) will need to be followed during demolition.

If any lead-based paint is found to be peeling, flaking, or blistered prior to removal of the buildings, it would need to be removed prior to demolition because it is assumed that such paint will become separated from the building components during demolition activities. As a result, it must be managed and disposed of as a separate waste stream.

Removal of lead-based paint coated building materials in compliance with State law will have a less than significant impact. **(Less Than Significant Impact)**

Future Operations

Operation of the proposed project will include the use and storage on-site of cleaning supplies and maintenance chemicals in small quantities similar to the operations of the existing buildings. No other hazardous materials will be used or stored on-site. The small quantities of cleaning supplies

and maintenance chemicals that will be used on-site do not pose a risk to on-site workers or adjacent land uses. **(Less Than Significant Impact)**

4.6.2.3 Off-Site Hazards

As discussed in Section 4.6.1.3., there are no facilities in the project area with documented leaking underground storage tanks (LUSTs), chemical spills, or contamination of soil and/or groundwater that could impact the project site. Therefore, there are no hazardous materials conditions on nearby properties that would pose a significant risk to the project site. **(Less Than Significant Impact)**

4.6.3 Mitigation and Avoidance Measures for Hazardous Materials Impacts

4.6.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Development under the proposed General Plan amendment would be subject to General Plan policies, including those listed below.

- *Hazardous Materials Policy 1* states that 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* states that 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.

4.6.3.2 Project Specific Mitigation

The following project specific mitigation measures will be implemented during construction to reduce significant hazardous materials impacts:

On-Site Soil Contamination from Historic Cannery and Automotive Related Land Uses

- A Site Management Plan (SMP) and a Health and Safety Plan (HSP) will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include but are not limited to:
    - site control procedures to control the flow of personnel, vehicles, and materials in and out of the site,
    - measures to minimize dust generation, stormwater runoff, and tracking of soil off-site as well as to reduce the possibility of the creation of preferential pathways for chemicals of potential concern detected in groundwater beneath the site,
    - geotechnical recommendations to excavate and re-compact loose fill that may have been placed into the UST excavations. If pockets of suspected contaminated soil are encountered in these areas, protocols will be provided to segregate "clean" soil from contaminated soil,
    - protocols for dewatering (if required),

- protocols for conducting earthwork activities in areas where impacted soil, soil vapor, and/or groundwater are present or suspected. Worker training requirements, health and safety measures, and soil handling procedures will be described,
- protocols for addressing buried structures, wells, debris, or unidentified areas of impacted soil encountered during site development activities,
- protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse of the soil can be determined.
- Methods to monitor excavations and trenches for the presence of petroleum hydrocarbon vapors,
- Methods to evaluate and, if necessary, mitigate for vapor intrusion of petroleum hydrocarbons into proposed structures near the former service station area at 1600 Monterey Road,
- Procedures for handling and mitigating (i.e., capping on-site or off-site disposal) of impacted soil identified along the eastern and southern railroad tracks,
- Land use covenants and site operation and maintenance protocols to minimize the possibility of future disturbance and exposure of remaining residual contaminants.

Prior to issuance of grading permits, a copy of the SMP and HSP will be provided to the appropriate regulatory agencies including DTSC, the Santa Clara County Environmental Health Department, and the Director of the City's Environmental Services Department for review and approval.

4.6.4 Conclusion

Implementation of the identified General Plan policies and mitigation measures would reduce hazardous materials impacts to construction workers and nearby sensitive receptors to a less than significant level. **(Less Than Significant Impact with Mitigation)**

4.7 CULTURAL RESOURCES

4.7.1 Existing Setting

4.7.1.1 Prehistoric Resources

Prior to 2002 the project site was completely developed with the three buildings and the Sun Garden Cannery complex. Due to the previous development on the project site, no detailed subsurface archaeological inspections have been completed on-site. Archaeological inspections have, however, been completed in the project area. Records show that the project site is within the recorded location of a large archaeological site centered near Spartan Stadium.

Much of the project site has been disturbed due to building construction, demolition, removal of underground storage tanks, and hazardous materials investigations and clean-up (see Section 4.6, *Hazards and Hazardous Materials)*. There is no documentation that prehistoric artifacts were found during these activities. Nevertheless, unknown subsurface resources associated with the recorded archaeological site could be present on-site.

4.7.1.2 Historic Resources

Hispanic Period

The project site is located just outside the boundary of the second *El Pueblo de San José de Guadalupe*, which was established in 1797. The mostly heavily populated area of the pueblo was in the current downtown core area between Caesar Chavez Park and Santa Clara Street. There are no known historical records for the project site during the Hispanic period and it was likely not an active part of the pueblo lands.

American Period to Present

Records state that a portion of the project site was owned by S. Martin in 1876. In 1913, Joseph and Bruno Bisceglia acquired the property and constructed the original cannery complex. The cannery was owned and operated by the Bisceglia family for 24 years. The property and cannery were acquired by Frank DiNapoli between 1938 and 1940 and in 1941 the cannery was operational under the Sun Garden label. The DiNapoli family continued operation of the cannery until October 1996 when it was permanently closed. In February 2002, a fire occurred at the cannery complex and the entire complex was demolished shortly thereafter.

Currently, there are no historic buildings located on the project site. The existing office building fronting Monterey Road was constructed around 1940 but was not originally constructed on the project site. The building was originally a single-family house that was moved to the project site in the early 1960's and converted into an office. While the building is of sufficient age to be considered eligible as a historic structure, the relocation of the building removed it from its historical context and materially impaired the historical integrity of the structure.

Based on building records from the City of San José, it appears that the existing restaurant and warehouse were constructed in the early 1970s. Due to the age of these buildings and because they have no discernable architectural style, they are not eligible as historic structures.

The three extant buildings would not be eligible for the California or National Registers and none of the structures have been identified by the City of San José as architecturally or historically significant.

4.7.2 Cultural Resources Impacts

4.7.2.1 Thresholds of Significance

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

- cause a substantial adverse change in the significance of a historical resource as defined in the CEQA Guidelines Section 15064.5;
- cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5;
- directly or indirectly destroy a unique paleontological resource or site or unique geological feature; or
- disturb any human remains, including those interred outside of formal cemeteries.

4.7.2.2 Impacts to Cultural Resources

Records show that the project site is within the recorded location of a large archaeological site centered near Spartan Stadium. In addition, the site is near the outermost boundary of the second Pueblo de San José. In spite of the fact that development and other ground disturbing activities on the project site over the last 97 years has failed to generate reports of archaeological finding, the site has a moderate potential for containing prehistoric and historic archaeological resources due to it being near these identified archaeological areas. Because the site is near a known archaeological site, adjacent to the pueblo boundary, and within close proximity to two local waterways, there is also a potential for human remains to be found on-site. There is no evidence that the site contains unique paleontological resources. There are no unique geological features on the project site.

Impact CUL-1: Approval of the proposed General Plan amendment and implementation of the proposed project could result in the disturbance of previously unknown prehistoric or historic artifacts and/or human remains. **(Significant Impact)**

4.7.2.3 Impacts to Historic Buildings

As stated above, none of the buildings on the project site would be eligible for the California or National Registers and none of the structures have been identified by the City of San José as architecturally or historically significant. Therefore, approval of the proposed General Plan Amendment and implementation of the proposed project would have a less than significant impact on historic structures. **(Less Than Significant Impact)**

4.7.3 Mitigation and Avoidance Measures for Cultural Resources

4.7.3.1 General Plan Policies

The following General Plan policies would reduce impacts to subsurface prehistoric and historic resources:

- *Historic, Archaeological, and Cultural Resources Policy No. 1* states that because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.

- *Historic, Archaeological, and Cultural Resources Policy No. 8* states that for proposed development, sites which have been identified as archaeologically sensitive, the City should require an investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.

- *Historic, Archaeological, and Cultural Resources Policy No. 9* states that recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

4.7.3.2 Project Specific Mitigation

The following project-specific mitigation measures will be implemented during construction to avoid significant impacts to unknown cultural resources:

- A qualified archaeologist will be on-site to monitor the initial excavation of native soil once all pavement and engineered soil is removed from the project site. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required.

- In the event that prehistoric or historic resources are encountered during monitoring of the excavation and/or grading of the site, all activity within a 150-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting investigative procedures and any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

- In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

4.7.4 Conclusion

Implementation of the identified General Plan policies and mitigation measures will reduce cultural resources impacts to a less than significant level. **(Less Than Significant With Mitigation)**

4.8 TRANSPORTATION AND CIRCULATION

The information provided in this section is based on a traffic impact analysis (TIA) prepared by *Hexagon Transportation Consultants* in February 2011. The complete traffic report is provided in Appendix C.

4.8.1 Long-Range General Plan Amendment Analysis Exemption

The proposed project includes an amendment to the City's General Plan land use designation from *Heavy Industrial* and *General Commercial* to *Combined Industrial/Commercial*. For the purposes of a General Plan amendment analysis all current allowable land uses are assumed developed for comparison purposes. According to land use data prepared by the City of San José Planning Department for the project site, the proposed change in land use would result in 2,998 fewer jobs relative to the current adopted General Plan land use designations. As a result, the project is exempt from preparing a General Plan amendment long-range traffic impact analysis and preparation of a CUBE model run by City staff is not required.

The following traffic analysis is based on a project specific Level of Service analysis. The methodology for the Level of Service analysis is described in Section 4.8.2.4 below.

4.8.2 Existing Setting

4.8.2.1 Existing Roadway Network and Transportation Facilities

Regional Access

Regional access to the project site is provided via State Route (SR) 87, Highway 101 (US 101), and Interstate 280 (I-280) as described below.

SR 87 is a north/south six-lane (two mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction) freeway in the vicinity of the project site. Regional access to the project site is provided via its interchanges at Lelong Street and Almaden Expressway.

US 101 is an eight-lane (three mixed-flow lanes and one HOV lane in each direction) freeway in the vicinity of the site. It extends north through San Francisco and south through Gilroy. Regional access to the project site is provided via its interchanges with Tully Road and Story Road.

I-280 is a north/south eight-lane freeway (three mixed-flow lanes and one HOV lane in each direction) but is generally oriented east/west in the vicinity of downtown San José. Regional access to the project site is provided via its interchanges with Vine Street, First Street, Seventh Street, Tenth Street, and Eleventh Street.

Local Access

Local access to the project site is provided via Monterey Road, E. Alma Avenue, Keyes Street, Almaden Expressway, Senter Road, and Curtner Avenue as described below.

Monterey Road (SR 82) is a state highway that is a north/south six-lane arterial that runs along the western boundary of the project site. Monterey Road would provide direct access to the project site via four proposed driveways and a new proposed signalized intersection at Cottage Grove Avenue.

E. Alma Avenue is an east/west four-lane arterial that runs along the northern boundary of the project site. Alma Avenue would provide direct access to the project site via a single driveway.

Keyes Street is an east/west roadway that extends from Monterey Road to Senter Road. Keyes provides access to the project site via Monterey Road.

Almaden Expressway is a predominately six-lane roadway that extends from south San José to E. Alma Avenue. In the vicinity of downtown, Almaden Expressway transitions into a one-way couplet that connects to Almaden Road. Almaden Expressway provides access to the project site via E. Alma Avenue and San José Avenue.

Senter Road is a north/south four- to six-lane arterial that extends from Keyes Street to Capitol Expressway. Senter Road provides access to the project site via E. Alma Avenue.

Curtner Avenue is an east/west four-lane arterial that connects to Tully Road just east of Monterey Road. Curtner Avenue connects SR 87 to Monterey Road.

4.8.2.2 Existing Bicycle and Pedestrian Facilities

Pedestrian Facilities

In the vicinity of the project, sidewalks are found on all the surrounding roadways. Crosswalks are located at all signalized intersections in the project area. Monterey Road and E. Alma Avenue have sidewalks on both sides of the street. There are, however, no sidewalks on the south side of E. Alma Avenue between the existing rail line and Seventh Street, east of the project site.

Bicycle Facilities

In the vicinity of the project site, there are bike lanes on the following roadways:

- Monterey Road, south of Curtner Avenue
- Curtner Avenue/Tully Road, between Leigh Avenue and Quimby Road
- Keyes Street, between Fifth Street and Senter Road
- Senter Road, between Keyes Street and south of Capitol Expressway
- Seventh Street, between San José State University and Curtner Avenue
- Willow Street, east of SR 87.

There is also an off-street bike path adjacent to SR 87 that accesses the Tamien Caltrain/Light Rail Station, just north of E. Alma Avenue, and the Curtner Light Rail Station.

The existing bicycle facilities within the study area are shown on Figure 3 in Appendix C.

4.8.2.3 Existing Transit Service

Existing transit service to the project area is provided by the Valley Transportation Authority (VTA) and Caltrain. The existing transit service is shown on Figure 4 in Appendix C.

VTA Bus Service

Currently, there are seven bus routes that provide service to the project area. These routes are listed in Table 6 below.

TABLE 6 VTA Bus Service in the Project Area		
Route	**Route Description**	**Headways[1] (minutes)**
Local Route 25	Between Alum Rock Transit Center and De Anza College along Keyes Street	10
Local Route 26	Between Eastridge Transit Center and the Sunnyvale/Lockheed Martin Transit Center along Curtner Avenue and Tully Road.	15-30
Local Route 66	Between Kaiser Hospital and Dixon Landing Road (Milpitas) along Monterey Road. Bus stops for Route 66 are located within walking distance of the project site on both sides of Monterey Road.	15
Local Route 68	Between San José Diridon Station and Gavilan College (Gilroy) along Monterey Road. Bus stops for Route 68 are located within walking distance of the project site on both sides of Monterey Road.	15-30
Local Route 73	Between Snell/Capitol intersection and downtown San José along Senter Road.	15
Local Route 82	Between Westgate Mall and downtown San José along E. Alma Avenue. Bus stops for Route 82 are located within walking distance of the project site on both sides of E. Alma Avenue.	30
Limited Stop Route 304	Between Santa Teresa Light Rail Train station and the Sunnyvale Transit Center along Monterey Highway.	30
1 – Headways during Peak Hours		

VTA Light Rail Transit Service

The Tamien Light Rail Transit (LRT) station is located near SR 87 at Lelong Street/E. Alma Avenue approximately three-quarters of a mile west of the project site. The Tamien LRT station provides a direct connection to the Tamien Caltrain station and to VTA bus service (Local Routes 25 and 82). Due to the distance of the LRT station from the project site, this analysis assumes that use of LRT service by employees and customers of the proposed retail development would be limited.

LRT service at the Tamien station is provided by the Alum Rock-Santa Teresa LRT line, which operated from 4:00 am to 2:00 am daily with 15 minutes headways during peak commute and mid-day hours.

Caltrain Service

Commuter rail services between San Francisco and Gilroy is provided by Caltrain. Caltrain provides seven day service to the Tamien Caltrain station with multiple trains during peak commute hours.

4.8.2.4 Existing Intersection Operations

Traffic conditions at the study locations were evaluated using level of service (LOS). Level of service is a qualitative description of operating conditions ranging from LOS A, or free-flowing conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The correlation between average delay and level of service is shown in Table 7.

TABLE 7 Signalized Intersection Level of Service Definitions Based on Delay		
Level of Service	**Description**	**Average Control Delay per Vehicle[22]**
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	10.0 or less
B	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C[23] ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.0 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths.	Greater than 80.0

Source: Transportation Research Board, 2000 Highway Capacity Manual

The City of San José considers intersection operations of LOS D or better during the Peak Hour to be acceptable.

4.8.2.5 Existing Intersection Levels of Service

Intersections were selected for study if project traffic would add at least 10 trips per lane per hour during one or more peak hours. This is consistent with the adopted CMP methodology.

Analysis of the existing intersection operations concluded that all of the study intersections currently operate at an acceptable LOS. The results of the existing conditions analysis are summarized in Table 8. Figure 10 shows the locations of the study intersections.

TABLE 8 Existing Intersection Levels of Service					
Intersection/Intersection Reference No.		**AM Peak Hour**		**PM Peak Hour**	
		Delay	**LOS**	**Delay**	**LOS**
1	First Street and Keyes Street (CMP)	25.2	C	30.5	C
2	Second Street and Keyes Street	20.3	C	29.6	C
3	Seventh Street and Keyes Street	31.3	C	32.6	C
4	Tenth Street and Keyes Street	20.8	C	25.1	C
5	Eleventh Street and Keyes Street	23.4	C	21.5	C
6	First Street and Second Street	8.8	A	12.6	B
7	Lelong Street and W. Alma Avenue	35.8	D	33.4	C
8	Vine Street and W. Alma Avenue	8.8	A	19.0	B

[22] Measured in seconds.
[23] Volume to capacity ratio.

STUDY INTERSECTIONS FIGURE 10

TABLE 8 *Continued* Existing Intersection Levels of Service					
Intersection/Intersection Reference No.		**AM Peak Hour**		**PM Peak Hour**	
		Delay	**LOS**	**Delay**	**LOS**
9	Almaden Avenue and W. Alma Avenue	17.9	B	29.7	C
10	First Street and E. Alma Avenue (CMP)	40.0	D	42.7	D
11	Seventh Street and E. Alma Avenue	27.2	C	25.7	C
12	Tenth Street and E. Alma Avenue	26.4	C	22.5	C
13	Monterey Road and Cottage Grove Avenue	---	---	----	---
14	Monterey Road and San José Avenue	11.5	B	14.4	B
15	Monterey Road and Phelan Avenue	14.7	B	23.6	C
16	Monterey Road and GE DW (East)	10.47	B	22.1	C
17	Monterey Road and Curtner Avenue (CMP)	41.2	D	51.5	D

4.8.2.6 Background Conditions

Background traffic conditions represent conditions anticipated to exist prior to completion of the proposed development but after completion of the Sun Garden Redevelopment Project CEQA analysis. It takes into account planned transportation system improvements that will occur prior to implementation of the proposed project and background traffic volumes. Background peak-hour traffic volumes are calculated by adding estimated traffic from approved but not yet constructed development to the existing conditions. The added traffic from approved but not yet constructed developments located within the City of San José was obtained from the City's Approved Trips Inventory (ATI). This traffic scenario represents a more congested traffic condition than the existing plus project scenario since it includes traffic from approved projects. The background conditions analysis is consistent with City of San José adopted policy for transportation analyses though it is not required under CEQA, in that it represents a scenario in between existing plus project and a full cumulative analysis of other pending and foreseeable projects.

This analysis assumes that the transportation network under background conditions would be the same as the existing transportation network with the following exception:

Almaden Avenue and Vine Street Couplet Conversions – Conversion of Almaden Avenue and Vine Street from one-way streets to two-way streets.

Background Intersection Level of Service

Analysis of the background intersection operations found that the Monterey Road/Curtner Avenue intersection will operate at an unacceptable LOS E during the PM Peak Hour. This change in LOS from D to E from existing to background traffic volumes reflects that the environment in which the project will eventually occur is dynamic and affected by new development independent of the project. All other study intersections would operate at an acceptable LOS D or better under background conditions in both the AM and PM Peak Hours.

The results of the analysis under background conditions are summarized in Table 9. Intersections operating below relevant standards are shown in bold.

TABLE 9 Background Intersection Levels of Service					
Intersection/Intersection Reference No.		AM Peak Hour		PM Peak Hour	
		Delay	LOS	Delay	LOS
1	First Street and Keyes Street (CMP)	25.2	C	30.4	C
2	Second Street and Keyes Street	22.6	C	31.4	C
3	Seventh Street and Keyes Street	31.5	C	33.0	C
4	Tenth Street and Keyes Street	21.3	C	26.4	C
5	Eleventh Street and Keyes Street	24.0	C	22.0	C
6	First Street and Second Street	8.7	A	12.9	B
7	Lelong Street and W. Alma Avenue	36.4	D	33.7	C
8	Vine Street and W. Alma Avenue	26.8	C	33.9	C
9	Almaden Avenue and W. Alma Avenue	40.0	D	46.5	D
10	First Street and E. Alma Avenue (CMP)	41.1	D	43.6	D
11	Seventh Street and E. Alma Avenue	27.1	C	25.6	C
12	Tenth Street and E. Alma Avenue	26.1	C	22.3	C
13	Monterey Road and Cottage Grove Avenue	----	----	----	----
14	Monterey Road and San José Avenue	11.2	B	14.1	B
15	Monterey Road and Phelan Avenue	14.4	B	23.1	C
16	Monterey Road and GE DW (East)	10.2	B	21.3	C
17	Monterey Road and Curtner Avenue (CMP)	42.1	D	**55.7**	**E**

4.8.2.5 Freeway Operations

Since the proposed neighborhood shopping center would serve predominantly the local community, the number of project trips that would be added to the freeways in the area is expected to be relatively insignificant. Typically, a short-term impact analysis of freeway segment LOS would be conducted if a project is estimated to add trips to a freeway segment equal to or greater than one percent of the capacity of that segment. Since the number of project trips added to the freeways in the area is estimated to be well below the one percent threshold, a detailed CMP freeway analysis was not required.

4.8.3 Traffic Impacts

4.8.3.1 Thresholds of Significance

For the purpose of this EIR, a traffic impact is considered significant if the project would:

- cause the level of service at any local intersection to degrade from an acceptable LOS D or better under exiting or background conditions to an unacceptable LOS E or F under project conditions;
- at any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more; or
- cause the level of service on any freeway segment to degrade from an acceptable LOS E or better under existing conditions to an unacceptable LOS F under project conditions; or
- add more than one percent of the existing freeway capacity to any freeway segment operating at LOS F under existing conditions; or
- 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; or

- 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; or
- 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; or
- substantially increase hazards due to a design feature or incompatible land use; or
- result in inadequate emergency access; or
- conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities , or otherwise decrease the performance or safety of such facilities; or
- substantially impede the operation of a transit system as a result of congestion.

4.8.3.2 Project Impacts

Trip Generation Rates – Existing Conditions

The magnitude of traffic added to the roadway system by a particular development is estimated by multiplying the applicable trip generation rates by the size of the development. The trip generation rates used in the City of San José are based on the *San José Traffic Impact Analysis Handbook* (August 2008). A retail pass-by[24] trip reduction of 25 percent, which is standard for the City of San José) was applied to the PM Peak Hour trip generation estimates. At full build-out of the project site, the existing restaurant, warehouse, and office uses will be removed and replaced with new retail. The net new trips are based on project trips generated by 257,296 square feet of new development minus the pass-by trips. The existing office and restaurant on-site were not occupied at the time this analysis was prepared, so no trip credit was given to those land uses. In addition, the warehouse (which is currently occupied) appears to generate very little weekday Peak Hour traffic based on field observations and those trips are already accounted for in the existing traffic counts. For this reason, no trip credit was given for the existing warehouse.

Based on the community shopping rates, the project would generate 721 net new trips during the AM peak hour and 1,352 net new trips in the PM peak hour. The project trip generation estimates are presented in Table 10 below.

TABLE 10
Project Trip Generation Estimates

Use	AM Peak Hour Trips			PM Peak Hour Trips		
	In	Out	Total	In	Out	Total
Proposed Retail	433	288	721	901	901	1,802
Pass-by Reduction	---	---	---	<225>	<225>	<450>
Total Project Trips	433	288	721	676	676	1,352

[24] Pass-by trips are trips that would already be on the adjacent roadway (so are already counted in the background traffic) but would turn into the site while passing by.

Intersection Level of Service Analysis – Existing Plus Project

This analysis quantifies the Peak Hour traffic impacts of the proposed development under existing conditions as required by CEQA. The existing conditions analysis consists of existing traffic volumes plus project generated traffic.

This analysis assumes that the transportation network under project conditions would be the same as the transportation network under existing conditions with the following exceptions:

Cottage Grove Avenue Signal – The project proposes to construct a full access driveway (main entrance) on Monterey Road opposite Cottage Grove Avenue and construct a signal at this intersection.

E. Alma Avenue Driveway – The project proposes to construct a full access, unsignalized driveway on E. Alma Avenue just west of the existing railroad crossing, subject to review and approval by Union Pacific Railroad (UPRR).

The project trips from Table 10 were added to existing traffic volumes to determine project condition LOS of the study intersections. The results show that all the study intersections would operate at an acceptable LOS D or better under project conditions in both the AM and PM Peak Hours. The results of the analysis under project conditions are summarized in Table 11.

TABLE 11
Project Intersection Levels of Service

Intersections		Peak Hour	Existing		Existing Plus Project			
			Delay	LOS	Delay	LOS	Critical Delay	Critical V/C
1	First Street and Keyes Street (CMP)	AM	25.2	C	25.6	C	-0.2	0.013
		PM	30.5	C	34.1	C	6.4	0.128
2	Second Street and Keyes Street	AM	20.3	C	21.4	C	1.1	0.009
		PM	29.6	C	30.2	C	0.4	0.21
3	Seventh Street and Keyes Street	AM	31.3	C	31.3	C	0.2	0.015
		PM	32.6	C	32.9	C	0.7	0.027
4	Tenth Street and Keyes Street	AM	20.8	C	21.0	C	0.3	0.016
		PM	25.1	C	25.8	C	0.8	0.028
5	Eleventh Street and Keyes Street	AM	23.4	C	23.6	C	0.3	0.015
		PM	21.5	C	22.4	C	9.5	0.019
6	First Street and Second Street	AM	8.8	A	10.9	B	2.1	0.045
		PM	12.6	B	14.5	B	1.9	0.103
7	Lelong Street and W. Alma Avenue	AM	35.8	D	35.9	D	0.3	0.013
		PM	33.4	C	33.3	C	0.1	0.020
8	Vine Street and W. Alma Avenue	AM	8.8	A	8.4	A	-0.3	0.008
		PM	19.0	B	19.1	B	0.5	0.019
9	Almaden Avenue and W. Alma Avenue	AM	17.9	B	19.0	B	1.2	0.017
		PM	29.7	C	29.5	C	-0.1	0.031
10	First Street and E. Alma Avenue (CMP)	AM	40.0	D	42.0	D	2.5	0.047
		PM	43.7	D	47.0	D	4.3	0.124
11	Seventh Street and E. Alma Avenue	AM	27.2	C	28.1	C	0.8	0.026
		PM	25.7	C	27.5	C	2.1	0.049
12	Tenth Street and E. Alma Avenue	AM	26.4	C	27.0	C	0.6	0.036
		PM	22.5	C	24.6	C	3.5	0.071
13	Monterey Road and Cottage Grove Avenue	AM	----	----	16.0	B	---	---
		PM	----	----	31.0	C	---	---

TABLE 11 *Continued* Project Intersection Levels of Service								
Intersections		Peak Hour	Existing		Existing Plus Project			
			Delay	LOS	Delay	LOS	Critical Delay	Critical V/C
14	Monterey Road and San José Avenue	AM	11.5	B	11.4	B	0.3	0.023
		PM	14.4	B	13.9	B	-0.2	0.038
15	Monterey Road and Phelan Avenue	AM	14.7	B	15.4	B	0.9	0.025
		PM	23.6	C	24.2	C	0.5	0.032
16	Monterey Road and GE DW (East)	AM	10.4	B	10.2	B	0.0	0.016
		PM	22.1	C	21.3	C	-0.4	0.022
17	Monterey Road and Curtner Avenue (CMP)	AM	41.2	D	42.6	D	0.6	0.032
		PM	51.5	D	52.4	D	1.4	0.020

The proposed project will not have a significant impact on the LOS of any local intersection in the project area during AM or PM Peak Hour under existing conditions. **(Less Than Significant Impact)**

Trip Generation Rates – Background Conditions

As stated above, the trip generation rates used in the City of San José are based on the San José Traffic Impact Analysis Handbook (August 2008). According to City of San José adopted policy, trip credits can be given under background plus project conditions for existing buildings whether they are occupied or vacant. For buildings that are vacant or occupied but underutilized, the City's trip rates are applied so as not to underestimate an existing uses potential for generating trips.

Based on the existing trip credits, the pass-by trip reduction for retail uses, and the estimated project trips, the project would generate 627 net new trips during the AM peak hour and 1,178 net new trips in the PM peak hour. The project trip generation estimates are presented in Table 12 below.

TABLE 12 Project Trip Generation Estimates Under Background Conditions						
Use	AM Peak Hour Trips			PM Peak Hour Trips		
	In	Out	Total	In	Out	Total
Proposed Retail	433	288	721	901	901	1,802
Pass-by Reduction	---	---	---	<225>	<225>	<450>
Total Project Trips	433	288	721	676	676	1,352
Existing Uses						
Restaurant	<10>	<1>	<11>	<60>	<26>	<86>
Warehouse	<53>	<23>	<76>	<24>	<57>	<81>
Office	<6>	<1>	<7>	<1>	<6>	<7>
Total Net New Trips	**364**	**263**	**627**	**591**	**587**	**1,178**

Intersection Level of Service Analysis –Background Conditions Plus Project

Net additional project trips, as shown in Table 12 above, were added to the background traffic volumes to determine the LOS of the study intersections at the start of operation of the proposed project. The results show that the Monterey Road/Curtner Avenue intersection would continue to operate at unacceptable levels of service, but would not be significantly impacted by the proposed project. All other study intersections would operate at an acceptable LOS D or better under

background conditions in both the AM and PM Peak Hours. The results of the analysis under project conditions are summarized in Table 13.

TABLE 13
Project Intersection Levels of Service Under Background Conditions

Intersections		Peak Hour	Background		Project			
			Delay	LOS	Delay	LOS	Critical Delay	Critical V/C
1	First Street and Keyes Street (CMP)	AM	25.2	C	25.5	C	-0.2	0.012
		PM	30.4	C	33.7	C	6.0	0.117
2	Second Street and Keyes Street	AM	22.6	C	23.8	C	0.7	0.019
		PM	31.4	C	31.8	C	0.4	0.031
3	Seventh Street and Keyes Street	AM	31.5	C	31.6	C	0.2	0.014
		PM	33.0	C	33.4	C	0.7	0.024
4	Tenth Street and Keyes Street	AM	21.3	C	21.4	C	0.2	0.014
		PM	26.4	C	27.1	C	0.9	0.024
5	Eleventh Street and Keyes Street	AM	24.0	C	24.2	C	0.5	0.013
		PM	22.0	C	22.6	C	10.5	0.024
6	First Street and Second Street	AM	8.7	A	10.5	B	1.8	0.040
		PM	12.9	B	14.7	B	1.8	0.093
7	Lelong Street and W. Alma Avenue	AM	36.4	D	36.5	D	0.3	0.011
		PM	33.7	C	33.6	C	0.2	0.022
8	Vine Street and W. Alma Avenue	AM	40.0	D	42.8	D	5.0	0.016
		PM	46.5	D	48.4	D	2.7	0.023
9	Almaden Avenue and W. Alma Avenue	AM	26.8	C	26.8	C	0.2	0.008
		PM	33.9	C	34.5	C	1.1	0.018
10	First Street and E. Alma Avenue (CMP)	AM	41.1	D	42.8	D	2.3	0.041
		PM	43.6	D	46.9	D	4.4	0.109
11	Seventh Street and E. Alma Avenue	AM	27.1	C	27.9	C	0.8	0.022
		PM	25.6	C	27.2	C	2.0	0.042
12	Tenth Street and E. Alma Avenue	AM	26.1	C	26.7	C	0.6	0.033
		PM	22.3	C	24.2	C	3.2	0.062
13	Monterey Road and Cottage Grove Avenue	AM	----	----	19.2	B	----	----
		PM	----	----	31.3	C	----	----
14	Monterey Road and San José Avenue	AM	11.2	B	11.1	B	0.2	0.019
		PM	14.1	B	13.7	B	-0.1	0.033
15	Monterey Road and Phelan Avenue	AM	14.4	B	15.0	B	0.9	0.023
		PM	23.1	C	23.7	C	0.5	0.028
16	Monterey Road and GE DW (East)	AM	10.2	B	10.0	B	0.0	0.013
		PM	21.3	C	20.7	C	-0.3	0.019
17	Monterey Road and Curtner Avenue (CMP)	AM	42.1	D	43.5	D	2.7	0.028
		PM	55.7	E	56.8	E	2.0	0.017

The proposed project will not have a significant impact on the LOS of any local intersection in the project area during AM or PM Peak Hour under background conditions. **(Less Than Significant Impact)**

4.8.3.3 Transit, Bicycle, and Pedestrian Facilities Analysis

Transit Facilities

Local bus routes 66 and 68 operate along Monterey Road and are within reasonable walking distance of the project site. Both routes have 15-30 minute headways during peak commute periods. Local bus route 82 operates along E. Alma Avenue within reasonable walking distance of the project site

and has 30 minute headways during peak commute periods. Due to the location of the bus stops relative to the project site, it is reasonable to assume that some patrons and employees of the proposed retail development would utilize the existing transit services. Based on the proposed land use, the highest transit mode share that could be expected would be two percent. A two percent mode share equates to approximately 14 new transit rides during the AM Peak Hour and 27 new transit rides in the PM Peak Hour.

Assuming the existing transit service would remain unchanged, the total number of new transit rides would equate to less than one new rider per bus during the AM Peak Hour and one to two new riders per bus in the PM Peak Hour. These riders could be accommodated by the current available ridership capacity. No improvements to the existing transit service would be required to support the proposed project.

Bicycle Facilities

The nearest bike lanes to the project site are on Seventh Street which runs parallel to and east of Monterey Road and crosses E. Alma Avenue. While there are no bike lanes on Monterey Road or E. Alma Avenue, cyclists may still choose to use these streets to access the site. A reasonable assumption for bicycle commute trips would be a one percent mode share. This equates to approximately seven bicycle trips in the AM Peak Hour and 14 bicycle trips in the PM Peak Hour. This would be an insignificant amount of bicycle traffic on the roadways in the project area. No new facilities would be required to accommodate the assumed bicycle trips.

Pedestrian Facilities

Pedestrian traffic would primarily be generated by employees and patrons of the proposed retail development walking to and from the neighborhoods on the west side of Monterey Road and the bus stops along Monterey Road. Crosswalks are located at all signalized intersections in the project area. Monterey Road and E. Alma Avenue have sidewalks on both sides of the street. There are, however, no sidewalks on the south side of E. Alma Avenue between the existing rail line and Seventh Street, east of the project site.

Overall the existing network of sidewalks in the study area has good connectivity and would provide pedestrians with a safe connection between their point of origin and the project site. While the project would slightly increase pedestrian travel in the project area, the existing pedestrian facilities are sufficient to support the proposed project.

There is a planned future trail, the Three Creeks Trail, that would be located south of Highway 87, travel east across Monterey Road, and pass along the southern perimeter of the site along the abandoned rail line. The trail would extend east to Senter Road and then continue north. The extension of the trail from the residential neighborhood to the west of the project site across Monterey Road would provide another route of travel for pedestrians accessing the project site.

The proposed project will not have a significant impact on the existing transit, bicycle, or pedestrian facilities in the project area. **(Less Than Significant Impact)**

4.8.3.4 Operational Safety

Monterey Road Driveway Operations

As previously discussed, the project would provide full access to and from the site via a new signal at Monterey Road/Cottage Grove Avenue. This main access driveway is planned to have two inbound lanes and two outbound lanes.[25] Additional unsignalized left-turn inbound access from Monterey Road would be provided approximately 500 feet to the south. Both locations on Monterey Road would provide one southbound left-turn lane with approximately 100 feet of vehicle queuing storage. The southbound left-turn lanes together would provide sufficient storage for the inbound left-turn vehicle queues that are expected to occur on Monterey Road under project conditions no operational issues are expected to occur.

The westbound left-turn lane at the Monterey Road/Cottage Grove Avenue, which is approximately 225 feet long, would provide adequate storage for the outbound left-turn vehicle queues that would develop on-site under project conditions no operational issues are expected to occur.

E. Alma Avenue Driveway Operations

As previously described, the project would provide access to and from the site via an unsignalized driveway on E. Alma Avenue. The driveway along Alma Avenue assumes relocation of the existing rail crossing gate in order to locate the driveway outside the gate. Dependent upon the ultimate design of the access, the City will make a determination whether additional left-turn access can be accommodated.

This project driveway would be situated between the existing Southern Lumber property and an existing railroad crossing. Dependant on the ultimate design of the rail line gate relocation or the abandonment of the rail line, a shared two-way center left-turn lane on E. Alma Avenue could provide approximately 50 feet of vehicle storage for vehicles turning left into the site from westbound E. Alma Avenue. The shared two-way center left-turn lane would provide adequate storage for vehicles turning left into the site from westbound W. Alma Avenue.

The shared left-turn/right-turn lane would block 5 or 6 parking spaces on-site if three or more cars are queued to turn. Based on the site plan layout, however, these parking spaces most likely would be very rarely used. In addition, the outbound vehicle queues at this driveway would be less than three vehicles most of the day. Therefore, the E. Alma Avenue driveway would provide adequate vehicle storage for outbound project trips and no operational issues are expected to occur.

Sight Distance at Project Driveways

Sight distance requirements vary depending on the roadway speeds. For a driveway on Monterey Road, which has a posted speed limit of 40 mph, the Caltrans standard corner sight distance is 460 feet. For driveways on E. Alma Avenue (35 mph), the Caltrans standard corner sight distance is 400 feet. The Caltrans corner sight distance requirement is, however, considered ideal design and is most applicable to heavy volume state highways. In many situations, this standard is not feasible. The minimum acceptable sight distance is often considered the Caltrans stopping sight distance. For driveways on Alma Avenue, the Caltrans stopping sight distance is 250 feet. Based on the project site plan, it can be concluded that the driveways would meet the Caltrans sight distance standards and no operational issues are expected to occur.

[25] The proposed access at Cottage Grove is conceptual. Final design will occur at the improvement plan stage.

Delivery Truck Access

The site plan was reviewed for truck access by the method of truck turning-movement templates. Access was reviewed for the truck types WB-40 and SU-30, which represent small semi-trailer trucks, emergency vehicles, garbage trucks, and small to medium delivery vehicles. Analysis using the appropriate truck turning templates shows that the project driveway and drive aisle dimensions would be adequate to accommodate these truck types and no operational issues are expected to occur.

4.8.4 Mitigation and Avoidance Measures for Transportation Impacts

4.8.4.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. Any future development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

- *Services and Facilities Level of Service Policy 5* states that the minimum overall performance of City streets during peak travel periods should be level of service D. To meet that goal, the policy states that 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 D or worse.

- *Transportation Policy 1* states that interneighborhood movement of people and goods should occur on thoroughfares and is discouraged on neighborhood streets.

- *Transportation Policy 3* states that public street right-of-way dedication and improvements should be required as development occurs. Ultimate thoroughfare right-of-way should be no less than the dimensions shown on the Land Use/Transportation Diagram except when a lesser right-of-way will avoid significant impacts and perform the same traffic movement function.

- *Transportation Policy 8* states that vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.

- *Transportation Policy 11* states that the City should cooperate with transportation agencies to achieve the following objectives for the County's public transit system:

    - Provide all segments of the City's population, including the handicapped, elderly, youth, and 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.
    - New development should be required to install indented curbs for bus pull-outs, bus shelters, and other transit-related public improvements, where appropriate.

- *Transportation Policy 17* states that pedestrian travel should be encouraged as a viable mode of movement between high density residential and commercial areas throughout the City and in activity areas such as schools, parks, transit stations, and in urban areas, particularly the Downtown Core Area and neighborhood business districts by providing safe and convenient pedestrian facilities.

- *Transportation Policy 18* states that Safe access and mobility for people with disabilities, in accordance with the American with Disabilities Act (ADA), will be implemented as a minimum standard in the design of all pedestrian facilities. Additional features beyond the ADA are encouraged.

- *Transportation Policy 19* states that the City should encourage walking, bicycling, and public transportation as preferred modes of transportation.

- *Transportation Policy 31* states that Industrial and commercial development should be planned so that truck access through residential areas is avoided. Truck travel on neighborhood streets should be minimized.

- *Transportation Policy 32* states that freight loading and unloading for new or rehabilitated industrial and commercial developments should be designed to not occur on public streets.

- *Transportation Policy 33* states that 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.

- *Transportation Policy* 35 states that reserved parking for the handicapped should be allocated at all public off-street parking sites.

- *Transportation Policy 36* states that bicycle parking facilities should be provided at all public off-street parking sites.

- *Transportation Policy 43* states that priority improvements to the Transportation Bicycle Network should include:

    - Bike routes linking light rail stations to nearby neighborhoods.
    - Bike paths along designated trails and pathways corridors.
    - Bike paths linking residential areas to major employment centers.
    - The General Plan's Transit-Oriented Development Corridor Special Strategy Areas include the Capitol Avenue/Expressway corridor. The General Plan states that "Intensification along this corridor will occur as sufficient transportation system capacity can be identified consistent with City Transportation Level of Service policies".

- *Transportation Policy 51* states that the City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks, and transit facilities and should promote bicycling as an alternative mode of transportation for commuting as well as for recreation.

- *Transportation Policy 52* states that bike lanes are considered generally appropriate on arterial and major collector streets. Right-of-way requirements for bike lanes should be considered in conjunction with planning the major thoroughfares network and in implementing street improvement projects.

- *Transportation Policy 55* states that bicycle parking facilities that are secure and convenient should be an integral component of such activity centers as major public facilities, business and employment sites and shopping centers.

4.8.5.2 Project Specific Mitigation

No mitigation is required or proposed.

4.8.5 Conclusion

Approval of the proposed General Plan amendment and implementation of the proposed project would have a less than significant impact on local and regional roadway operations and existing transit, bicycle, and pedestrian facilities. **(Less Than Significant Impact)**

4.9 AIR QUALITY

The information provided in this section is based on an air quality analysis prepared by *Illingworth & Rodkin* in November 2010. The complete report is provided in Appendix D.

4.9.1 Existing Setting

Air quality is determined by the concentration of various pollutants in the atmosphere. Units of concentration are expressed in parts per million (ppm) or micrograms per kilograms ($\mu g/m^3$).

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

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

Air quality standards for ozone are typically exceeded when relatively stagnant conditions occur for periods of several days during the warmer months of the year. Weak wind flow patterns combined with strong inversions substantially reduce normal atmospheric mixing. Key components of ground-level ozone formation are sunlight and heat. Significant ozone formation, therefore, only occurs during the months from late spring through early fall. Prevailing winds during the summer and fall can transport and trap ozone precursors from the more urbanized portions of the Bay Area. Meteorological factors make air pollution potential in the Santa Clara Valley quite high.

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

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

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

4.9.1.1 Overall Regulatory Setting

The significance of a pollutant concentration is determined by comparing the pollutant levels to an appropriate ambient air quality standard. The standards set the level of pollutant concentrations allowable while protecting general public health and welfare.

The Federal Clean Air Act (Federal CAA) establishes pollutant thresholds for air quality in the United States. In addition to being subject to Federal requirements, California has its own more stringent regulations under the California Clean Air Act (California CAA). At the Federal level, the U.S. Environmental Protection Agency (EPA) administers the CAA. The California CAA is administered by the California Air Resources Board (CARB) at the State level and by the Air Quality Management Districts at the regional and local levels. The Bay Area Air Quality Management District (BAAQMD) regulates air quality in the nine-county Bay Area.

The U.S. EPA is responsible for establishing the National Ambient Air Quality Standards (NAAQS) which are required under the Federal CAA. The U.S. EPA regulates emission sources that are under the exclusive authority of the federal government, such as aircraft, ships, and certain types of locomotives. The agency also established various emission standards for vehicles sold in states other than California. Automobiles sold in California must meet the stricter emission standards established by CARB.

California Air Resources Board

As stated above, CARB (which is part of the California EPA) is responsible for meeting the state requirements of the Federal CAA, administering the California CAA, and establishing the California Ambient Air Quality Standards (CAAQS). The California CAA requires all air districts in the State to achieve and maintain CAAQS. CARB regulates mobile air pollution sources such as motor vehicles. The agency is responsible for setting emission standards for vehicles sold in California and for other emission sources, such as consumer products and certain off-road equipment. CARB has established passenger vehicle fuel specifications and oversees the functions of local air pollution control districts and air quality management districts, which in turn administer air quality activities at the regional and county level. CARB also conducts or supports research into the effects of air pollution on the public and develops approaches to reduce air pollutant emissions.

Bay Area Air Quality Management District

BAAQMD is primarily responsible for ensuring that the National and State ambient air quality standards are attained and maintained in the Bay Area. These ambient air quality standards are levels of contaminants which represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called "criteria" pollutants because the health and other effects of each pollutant are described in criteria documents. Table 14 identifies the major criteria pollutants, characteristics, health effects, and typical sources for the Bay Area.

TABLE 14 Major Criteria Pollutants			
Pollutant	**Characteristics**	**Health Effects**	**Major Sources**
Ozone	A highly reactive photochemical pollutant created by the action of sun light on ozone precursors. Often called photochemical smog.	- Eye Irritation - Respiratory function impairment	The major sources of ozone precursors are combustion sources such as factories and automobiles, and evaporation of solvents and fuels.
Carbon Monoxide	Carbon monoxide is an odorless, colorless gas that is highly toxic. It is formed by the incomplete combustion of fuels.	- Impairment of oxygen transport in the bloodstream - Aggravation of cardiovascular disease - Fatigue, headache, confusion, dizziness - Can be fatal in the case of very high concentrations	Automobile exhaust, combustion of fuels, combustion of wood in wood stoves and fireplaces.
Nitrogen Dioxide	Reddish-brown gas that discolors the air, formed during combustion.	- Increased risk of acute and chronic respiratory disease	Automobile and diesel truck exhaust, industrial processes, and fossil-fueled power plants.
Sulfur Dioxide	Sulfur dioxide is a colorless gas with a pungent, irritating odor.	- Aggravation of chronic obstruction lung disease - Increased risk of acute and chronic respiratory disease	Diesel vehicle exhaust, oil-powered power plants, and industrial processes.
Particulate Matter	Solid and liquid particles of dust, soot, aerosols and other matter that are small enough to remain suspended in the air for a long period of time.	- Aggravation of chronic disease and heart/lung disease symptoms	Combustion, automobiles, field burning, factories and unpaved roads. Also a result of photochemical processes.

BAAQMD is also responsible for adopting and enforcing rules and regulations concerning air pollutant sources, issuing permits for stationary sources of air pollutants, inspecting stationary sources of air pollutants, responding to citizen complaints, monitoring ambient air quality and meteorological conditions, awarding grants to reduce motor vehicle emissions, conducting public education campaigns, and many other associated activities. BAAQMD has jurisdiction over much of the nine-county Bay Area, including San José.

National and State Ambient Air Quality Standards

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

As required by the Federal CAA, the NAAQS have been established for six major air pollutants; carbon monoxide (CO), nitrogen oxides (NO_x), ozone (O_3), respirable particulate matter (PM_{10}), fine particulate matter ($PM_{2.5}$), sulfur oxides, and lead. Pursuant to the California CAA, the State of California has also established ambient air quality standards. The CAAQS are generally more stringent than the corresponding federal standards and incorporate additional standards for pollutants such as sulfates, hydrogen sulfide, vinyl chloride and visibility reducing particles. Both State and Federal standards are summarized in Table 15. The "primary" standards have been established to protect the public health. The "secondary" standards are intended to protect the nation's welfare and account for adverse air pollutant effects on soil, water, visibility, materials, vegetation and other aspects of the general welfare. Because CAAQS are more stringent than NAAQS, CAAQS are used as the comparative standard in this analysis.

TABLE 15
Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards	National Standards	
			Primary	Secondary
Ozone	1-hour	0.09 ppm	---	Same as primary
	8-hour	0.07 ppm	0.075 ppm	---
Carbon monoxide	1-hour	20 ppm	35 ppm	---
	8-hour	9.0 ppm	9.0 ppm	---
Nitrogen dioxide	1-hour	0.18 ppm	0.10 ppm	---
	Annual	0.03 ppm	0.053 ppm	Same as primary
Sulfur dioxide	1-hour	0.25 ppm	0.075 ppm	---
	3-hour	---	---	0.5 ppm
	24-hour	0.04 ppm	---	---
PM_{10}	24-hour	50 $\mu g/m^3$	150 $\mu g/m^3$	Same as primary
	Annual	20 $\mu g/m^3$	---	---
$PM_{2.5}$	24-hour	---	35 $\mu g/m^3$	Same as primary
	Annual	12 $\mu g/m^3$	15 $\mu g/m^3$	Same as primary
Lead	Calendar Quarter	---	1.5 $\mu g/m^3$	Same as primary
	30-day average	1.5 $\mu g/m^3$	---	---

Source: California Air Resources Board, September 2010.

Regional Clean Air Plans

The BAAQMD and other agencies prepare clean air plans in response to the State and Federal CAA. The City of San José also has General Plan policies that encourage development that reduces air quality impacts. In addition, BAAQMD has developed CEQA Guidelines to assist local agencies in evaluating and mitigating air quality impacts in CEQA documents. The regional clean air plan is the 2010 Bay Area Clean Air Plan. A description of each of this plan and the City of San José relevant General Plan policies is provided in Section 3.0, *Consistency with Plans and Policies.*

4.9.1.2 Existing Air Quality Conditions

Air quality studies generally focus on five criteria pollutants that are most commonly measured and regulated: CO, ground level ozone, nitrogen dioxide (NO_2), sulfur dioxide (SO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). In Santa Clara County, ozone and particulate matter are the pollutants of greatest concern since measured air pollutant levels exceed the State and Federal air quality standards concentrations at times.

Carbon Monoxide

Carbon monoxide, a colorless and odorless gas, interferes with the transfer of oxygen to the brain. It can cause dizziness and fatigue, and can impair central nervous system functions. Highest CO concentrations measured in the South Bay Area have been well below the national and state ambient standards. Since the primary sources of CO are cars and trucks, highest concentrations would be found near congested roadways that carry large volumes of traffic. Carbon monoxide emitted from a vehicle is highest near the origin of a trip and considerably lower once the automobile is warmed up (usually five to ten minutes into a trip). This is different, however, for vehicles of different ages, where older cars require a longer warm up period. A vehicle sitting idle for over an hour is normally considered to return to a cold start mode. Vehicles near the origin of a trip are considered to be in cold start mode. Vehicle operation on freeways is usually in a warmed up mode so the individual emission rates are much lower than those encountered on arterial roadways leading to the freeway.

Ozone

While O_3 serves a beneficial purpose in the upper atmosphere (stratosphere) by reducing ultraviolet radiation, when it reaches elevated concentrations in the lower atmosphere it can be harmful to the human respiratory system and to sensitive species of plants. Ozone concentrations build to peak levels during periods of light winds, bright sunshine, and high temperatures. Short-term O_3 exposure can reduce lung function in children, make persons susceptible to respiratory infection, and produce symptoms that cause people to seek medical treatment for respiratory distress. Long-term exposure can impair lung defense mechanisms and lead to emphysema and chronic bronchitis. Sensitivity to O_3 varies among individuals, but about 20 percent of the population is sensitive to O_3, with exercising children being particularly vulnerable. Ozone is formed in the atmosphere by a complex series of photochemical reactions that involve "ozone precursors" that are two families of pollutants: oxides of nitrogen (NOx) and reactive organic gases (ROG). Nitrogen oxides and ROG are emitted from a variety of stationary and mobile sources. While NO_2, an oxide of nitrogen, is another criteria pollutant itself, ROGs are not in that category, but are included in this discussion as O_3 precursors. The U.S. EPA recently established a new more stringent standard for O_3 of 0.75 ppm for 8-hour exposures, based on a review of the latest new scientific evidence.

Nitrogen Dioxide

Nitrogen dioxide, a reddish-brown gas, irritates the lungs. Exposure to NO_2 can cause breathing difficulties at high concentrations. Clinical studies suggest that NO_2 exposure to levels near the current standard may worsen the effect of allergens in allergic asthmatics, especially in children. Similar to O_3, NO_2 is not directly emitted, but is formed through a reaction between nitric oxide (NO) and atmospheric oxygen. Nitric oxide and NO_2 are collectively referred to as NO_x and are major contributors to O_3 formation. Nitrogen oxides are emitted from combustion of fuels, with higher rates at higher combustion temperatures. Nitrogen dioxide also contributes to the formation of PM_{10} (see discussion of PM_{10} below). Monitored levels in the Bay Area are well below ambient air quality standards.

Sulfur Oxides

Sulfur oxides, primarily SO_2, are a product of high-sulfur fuel combustion. The main sources of SO_2 are coal and oil used in power stations, in industries, and for domestic heating. Sulfur oxides are an irritant gas that attacks the throat and lungs. It can cause acute respiratory symptoms and diminished ventilator function in children. Concentrations of SO_2 in the Bay Area are at levels well below the

State and national standards, but further reductions in emissions are needed to attain compliance with standards for PM_{10}, to which SO_2 is a contributor.

PM_{10} and $PM_{2.5}$

Respirable particulate matter (PM_{10}), and fine particulate matter ($PM_{2.5}$) consist of particulate matter that is ten microns or less in diameter and 2.5 microns or less in diameter, respectively, and represent fractions of particulate matter that can be inhaled and cause adverse health effects. Both PM_{10} and $PM_{2.5}$ are health concerns, particularly at levels above the Federal and State ambient air quality standards. Fine particulate matter (including diesel exhaust particles) is thought to have greater effects on health because minute particles are able to penetrate to the deepest parts of the lungs. Scientific studies have suggested links between fine particulate matter and numerous health problems including asthma, bronchitis, and acute and chronic respiratory symptoms such as shortness of breath and labored breathing. Children are more susceptible to the health risks of $PM_{2.5}$ because their immune and respiratory systems are still developing. Very small particles of certain substances (e.g., sulfates and nitrates) can also directly cause lung damage or can contain absorbed gases (e.g., chlorides or ammonium) that may be injurious to health.

Both PM_{10} and $PM_{2.5}$ pose a greater health risk than larger particles because these tiny particles can penetrate the human respiratory system's natural defenses and damage the respiratory tract, increasing the number and severity of asthma attacks, cause or aggravate bronchitis and other lung diseases, and reduce the body's ability to fight infections. Whereas larger particles tend to collect in the upper portion of the respiratory system, $PM_{2.5}$ is miniscule and can penetrate deeper into the lungs and damage lung tissues. Suspended particulates also damage and discolor surfaces on which they settle, as well as produce haze and reduce regional visibility. The U.S. EPA recently adopted a new more stringent standard of 35 $\mu g/m^3$ for 24-hour exposures based on a review of the latest scientific evidence. At the same time, the U.S. EPA revoked the annual PM_{10} standard due to a lack of scientific evidence correlating long-term exposures of ambient PM_{10} with adverse health effects. Most stations in the Bay Area reported exceedances of the State standard on the same fall/winter days as reported in the South Bay. This indicates a regional air quality problem.

The primary sources of these pollutants are wood smoke and local traffic. Meteorological conditions that are common during this time of the year produce calm winds and strong surface-based inversions that trap pollutants near the surface. The buildup of these pollutants is greatest during the evenings and early morning periods. The high levels of PM_{10} result in not only health effects, but also reduced visibility.

Air Monitoring Data

Air quality in the region is controlled by the rate of pollutant emissions and meteorological conditions. Meteorological conditions, such as wind speed, atmospheric stability, and mixing height may all affect the atmosphere's ability to mix and disperse pollutants. Long-term variations in air quality typically result from changes in air pollutant emissions, while frequent, short-term variations result from changes in atmospheric conditions. The San Francisco Bay Area is considered to be one of the cleanest metropolitan areas in the country with respect to air quality. BAAQMD monitors air quality conditions at over 30 locations throughout the Bay Area. There are several BAAMQD monitoring stations in San José. Pollutant concentrations measured at the Jackson Street Monitoring Station, the station closest to the project area, are shown in Table 16. Values shown in **bold** exceed ambient air quality standards.

TABLE 16 Highest Measured Air Pollutant Concentrations						
Pollutant	**Average Time**	**Measured Air Pollutant Levels[26]**				
		2005	**2006**	**2007**	**2008**	**2009**
San Jose						
Ozone (O_3)	1-hour	**0.113 ppm**	**0.118 ppm**	0.083 ppm	**0.118 ppm**	0.088 ppm
	8-hour	**0.08 ppm**	**0.087 ppm**	0.068 ppm	**0.080 ppm**	0.069 ppm
Carbon Monoxide (CO)	1-hour	4.3 ppm	4.1 ppm	3.5 ppm	3.3 ppm	3.4 ppm
	8-hour	3.1 ppm	2.9 ppm	2.7 ppm	2.5 ppm	2.5 ppm
Nitrogen Dioxide (NO_2)	1-hour	0.074 ppm	0.074 ppm	0.065 ppm	0.080 ppm	0.069 ppm
	Annual	0.019 ppm	0.018 ppm	0.017 ppm	0.017 ppm	0.015 ppm
PM_{10}	24-hour	**54 µg/m^3**	**73 µg/m^3**	**69 µg/m^3**	**57 µg/m^3**	43 µg/m^3
	Annual	**22.3 µg/m^3**	**21.0 µg/m^3**	**21.9 µg/m^3**	**23.4 µg/m^3**	**20.3 µg/m^3**
$PM_{2.5}$	24-Hour	**54.6 µg/m^3**	**64.4 µg/m^3**	**57.5 µg/m^3**	**41.9 µg/m^3**	35.0 µg/m^3
	Annual	11.8 µg/m^3	10.8 µg/m^3	11.0 µg/m^3	11.5 µg/m^3	10.1 µg/m^3
	Annual	12 µg/m^3	11 µg/m^3	11 µg/m^3	11 µg/m^3	11 µg/m^3

Source: BAAQMD Air Quality Summaries for 2005, 2006, 2007, 2008, and 2009.

Attainment Status

Areas that do not violate ambient air quality standards are considered to be in attainment. Violations of ambient air quality standards are based on air pollutant monitoring data and are judged for each air pollutant. The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level ozone and $PM_{2.5}$ and State standards for PM_{10}. The area is classified in attainment or unclassified for all other pollutants.

Sensitive Receptors

There are groups of people more affected by air pollution than others. CARB has identified children under 14, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases as people most likely to be affected by air pollution. These groups are classified as sensitive receptors. Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks. The closest sensitive receptors to the proposed project site are the residences on the west side of Monterey Road. The residents are located approximately 270 feet west of the project site.

4.9.2 Air Quality Impacts

4.9.2.1 *Thresholds of Significance*

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

- Conflict with or obstruct implementation of the applicable air quality plan,
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation,
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient

[26] The maximum allowable pollutant levels are shown in Table 15.

air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors),
- Expose sensitive receptors to substantial pollutant concentrations, or
- Create objectionable odors affecting a substantial number of people.

BAAQMD CEQA Guidelines[27] provide the following definitions of a significant air quality impact:

- A cumulatively considerable net increase of any criteria pollutant or a precursor to that pollutant for which the project region is non-attainment under an applicable national or State ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors). This is judged by comparing direct and indirect project emissions to the BAAQMD significance thresholds of 54 pounds per day for ROG, NOx, or $PM_{2.5}$, and 82 pounds per day for PM_{10}. Annual significance thresholds are 10 tons per year for ROG, NOx, or $PM_{2.5}$, and 15 tons per year for PM_{10}.

- A substantial contribution to an existing or projected violation of an ambient air quality standard would result if the project would cause an exceedance of an ambient air quality standard.

- Expose sensitive receptors or the general public to substantial pollutant concentrations. This is evaluated by assessing the health risk in terms of cancer risk or hazards posed by the placement of new sources of air pollutant emissions near existing sensitive receptors or placement of new sensitive receptors near existing sources.

- Create or expose a substantial number of people to objectionable odors. This is evaluated based on the potential for the project to generate odors that could affect nearby sensitive receptors in a manner that would cause frequent complaints.

- Conflict with or obstruct implementation of the applicable air quality plan. This is evaluated by comparing the project effects on projections used in the latest Bay Area Clean Air Plan and evaluating the plan features that would implement Clean Air Plan Transportation Control Measures.

4.9.2.2 Operational Project Emissions

The Bay Area is classified as a non-attainment area for ground-level ozone under both the Federal and California CAA. The area is also in non-attainment for both PM_{10} and $PM_{2.5}$ under the California CAA.

The increase in vehicle trips generated by the project site would result in a net increase in mobile air pollutant emissions affecting the entire San Francisco Bay Air Basin. In addition, emissions would be generated during normal operation of the retail center. Area sources would include the energy required to operate the heating/cooling, lighting, and other building systems. Emission pollutants generated by the project were predicted using the URBEMIS2007 model. The incremental daily emissions increase associated with project land uses is identified in Table 17.

[27] Bay Area Air Quality Management District. California Environmental Quality Act, Air Quality Guidelines. 2010. http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx

TABLE 17 Daily Project Emissions in Pounds Per Day				
Scenario	**ROG**	**NOx**	**PM_{10}**	**$PM_{2.5}$**
Existing Industrial/Commercial Uses	8.0	9.1	10.5	2.2
Proposed Project	57.8	59.6	64.3	13.5
Net Project Emissions Increase	49.8	50.5	53.8	11.3
BAAQMD Thresholds	54	54	82	54

The emissions listed in Table 17 represent the net increase in emissions from the proposed project site in 2015, when the project would likely be fully operational. The total increase in average daily emissions from operation of the proposed project would be below the established BAAQMD significance thresholds. As a result, operation of the proposed project would have a less than significant air quality impact. **(Less Than Significant Impact)**

4.9.2.3 Local Impacts

Carbon Monoxide from Project Traffic

The project would increase traffic on the local street network, increasing carbon monoxide levels along roadways used by project traffic. Carbon monoxide is an odorless, colorless poisonous gas whose primary source in the Bay Area is automobiles. Concentrations of this gas are highest near intersections of major roads.

The new BAAQMD CEQA Air Quality Guidelines include criteria to determine if analysis of carbon monoxide impacts is necessary. Under the screening criteria, dispersion modeling of carbon monoxide emissions is only necessary if the total hourly volume of an intersection affected by the proposed project exceeds 44,000 vehicles per hour. The intersection of E. Alma Avenue and Monterey Road, which would experience the highest volume of project traffic, would have a volume of approximately 4,400 vehicles per hour. Therefore, project impacts on local CO concentrations will be less than significant. **(Less Than Significant Impact)**

Sensitive Receptors

Operation of the project is not expected to cause any localized emissions that could expose sensitive receptors to unhealthy air pollutant levels. The retail uses would be a source of occasional truck traffic for deliveries; however, there are no sensitive receptors located adjacent to or within close enough proximity to the project site to be affected. **(Less Than Significant Impact)**

Objectionable Odors

During construction, the various diesel powered vehicles and equipment in use on-site would create localized odors. Delivery trucks serving the project would also result in similar odors, but on a reduced scale. These odors would not likely be noticeable for extended periods of time nor extend much beyond the project's site boundaries. Construction and operation of the proposed project will have a less than significant diesel odor impact. **(Less Than Significant Impact)**

During project operations, the project could produce odors as a result of refuse storage and collection, and from cooking exhaust at the restaurants. The refuse storage and collection area would include enclosed containers to minimize generation of odors. The proposed project could include restaurants, resulting in the potential for cooking odors to be emitted. Residences and/or other sensitive receptors are not,

however, located adjacent to the site. In addition, there are existing and historic restaurant uses at the site that have not caused reported odor complaints. Therefore, the potential for odors impacts is low. Operation of the proposed project would not result in a significant odor impact. **(Less Than Significant Impact)**

4.9.2.4 Construction-Related Impacts

Temporary Construction Emissions

The proposed project would require excavation and grading of the site as well as concrete crushing and building demolition. Excavation of soil has a high potential for creating air pollutants. In addition to the dust created during excavation, substantial dust would be created as buildings and pavement are demolished and debris and soil is loaded into trucks for removal.

After excavation and demolition, construction dust would continue to affect local air quality during construction of the project. Construction activities would generate exhaust emissions from vehicles/equipment and fugitive particulate matter emissions that would affect local air quality.

BAAQMD has established thresholds of significance for construction –related emissions. These thresholds are 54 pounds per day for NOx, ROG, and $PM_{2.5}$, and 82 pounds per day for PM_{10}.[28] It is anticipated that full build-out of the proposed project would take one year. Construction emissions for the proposed project were calculated with the URBEMIS2007 model. The results of the model run are shown in Table 18 below.

TABLE 18
Project Construction Emissions (pounds per day)

Construction Phase	ROG	NOx	PM_{10}	$PM_{2.5}$
Construction Emissions	66	33	2	2
BAAQMD Thresholds	54	54	82	54

As shown in Table 18 construction emissions for NOx, PM_{10}, and $PM_{2.5}$ are well below the BAAQMD significance thresholds for emissions. Construction of the project would, however, exceed the ROG threshold. ROG emissions are primarily associated with the painting of new building exteriors and interior spaces. For the purposes of this analysis, it was assumed that all painting operations would occur over a 10 week (2.5 month) period.

Impact AIR-1: Construction activity emissions associated primarily with painting operations would have a significant air quality impact from ROG emissions. **(Temporary Significant Impact)**

Temporary Dust Emissions

Dust would be generated during demolition of the existing building, grading, and construction activities. The amount of dust generated would be highly variable and is dependent on the size of the area disturbed, amount of activity, soil conditions, and meteorological conditions. Nearby land uses are primarily commercial and office uses separated by roadways or open areas. These nearby land uses could be adversely affected by dust generated during construction activities. Construction dust emissions can also contribute to regional PM_{10} emissions.

[28] The PM_{10} and $PM_{2.5}$ thresholds are for exhaust emissions only. There are no specific significance thresholds for fugitive dust since BAAQMD relies on use of Best Management Practices to mitigate potential dust impacts.

Although construction activities would be temporary, they can cause both nuisance and health impacts if uncontrolled. Furthermore, uncontrolled PM_{10} levels have the potential to exceed State standards.

Impact AIR-2: Construction activities will result in significant, temporary dust generation. **(Significant Impact)**

4.9.3 Mitigation and Avoidance Measures for Air Quality Impacts

4.9.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. Any future development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

- *Natural Resources, Air Quality, Policy 1* states that 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.

- *Natural Resources, Air Quality, Policy 6* states that the City should continue to actively enforce its ozone-depleting compound ordinance and supporting policy to ban the use of chlorofluorcarbon compounds (CFCs) in packaging and in building construction and remodeling to help reduce damage to the global atmospheric ozone layer. The City may consider adopting other policies or ordinances to reinforce this effort.

4.9.3.1 Project Specific Mitigation

The following mitigation measures, as recommended by BAAQMD, are proposed as part of the project to avoid or reduce significant construction related air quality impacts:

- The painting phase of construction will occur over a minimum of three months or at least 20 percent of all building materials that would normally be painted would use pre-coated or colored materials.

- The following dust control measures will be implemented during all construction phases:

  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day or apply (non-toxic) soil stabilizers.

  - All haul trucks transporting soil, sand, or other loose material shall be covered or required to maintain at least two feet for freeboard.

  - Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; 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.

  - Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably 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.

- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);

- Enclose, cover, water at least twice daily, apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.

- All vehicle speeds on unpaved roads shall be limited 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.

- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas.

- Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.

- Limit the area subject to excavation grading, and other construction activity at any one time.

- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- 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 name of construction contact person to report complaints to the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

4.9.4 Conclusion

Approval of the proposed General Plan amendment and implementation of the proposed project would have a less than significant impact on local and regional pollutants including CO_2, ROG and NO_x. **(Less Than Significant Impact)**

Implementation of General Plan policies and the proposed project mitigation measures would reduce temporary ROG emissions air quality impacts resulting from construction activities to a less than significant level. **(Less Than Significant with Mitigation)**

4.10 GREENHOUSE GAS EMISSIONS

The information provided in this section is based on a greenhouse gas emissions analysis prepared by *Illingworth & Rodkin* in November 2010. The complete report is provided in Appendix D.

4.10.1 Existing Setting

4.10.1.1 Background Information

This section provides a general discussion of global climate change and focuses on emissions from human activities that alter the chemical composition of the atmosphere. The discussion of global climate change and greenhouse gas emissions is based upon the California Global Warming Solution Act of 2006 (Assembly Bill 32), the 2006 and 2009 Climate Action Team (CAT) reports to Governor Schwarzenegger and the Legislature, and research, information, and analysis completed by the International Panel on Climate Change (IPPC), the United States Environmental Protection Agency (EPA), the California Air Resources Board (CARB), and CAT.

Global climate change refers to changes in weather including temperatures, precipitation, and wind patterns. Global temperatures are modulated by naturally occurring and anthropogenic (generated by mankind) atmospheric gases such as carbon dioxide (CO_2), methane (CH_4), and nitrous oxide (N_2O).[29] These gases allow sunlight into the Earth's atmosphere but prevent heat from radiating back out into outer space and escaping from the earth's atmosphere, thus altering the Earth's energy balance. This phenomenon is known as the greenhouse effect.

California produced 474 million gross metric tons (MMT) of CO_2 equivalent (CO_2e) averaged over the period from 2002-2004. CO_2e is a measurement used to account for the fact that different greenhouse gases (GHGs) have different potential to retain infrared radiation in the atmosphere and contribute to the greenhouse effect. This potential, known as the global warming potential (GWP) of a GHG, is dependent on the lifetime, or persistence, of the gas molecule in the atmosphere. For example, one ton of CH_4 has the same contribution to the greenhouse effect as approximately 23 tons of CO_2. Therefore, CH_4 is a much more potent GHG than CO_2. Expressing emissions in CO_2e takes the contributions of all GHG emissions to the greenhouse effect and converts them to a single unit equivalent to the effect that would occur if only CO_2 were being emitted.[30]

Naturally occurring greenhouse gases include but are not limited to: CO_2, methane, N_2O, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.[31] Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also greenhouse gases, but are for the most part solely a product of industrial activities.

Impacts to California from climate change include shifting precipitation patterns, increasing temperatures, increasing severity and duration of wildfires, earlier melting of snow pack and effects on habitats and biodiversity. Sea levels along the California coast have risen up to seven inches over

[29] Intergovernmental Panel on Climate Change (IPCC), 2007, *Summary for Policymakers*, In "Climate Change 2007: The Physical Science Bases. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change" [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor, and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: http://ipcc.ch/

[30] BAAQMD. *Draft CEQA Guidelines*. September 2009. Available at: <http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/Workshop%20Draft%20-%20BAAQMD%20CEQA%20Guidelines%209-2009%20Superseded.ashx> Accessed November 22, 2010.

[31] Greenhouse gases as defined by the adopted 2010 CEQA Guidelines.

the last century, and average annual temperatures have been increasing. These and other effects will likely intensify in the coming decades and significantly impact the state's public health, natural and manmade infrastructure and ecosystems.[32]

Agencies at the international, national, state, and local levels are considering strategies to control emissions of gases that contribute to global warming. There is no comprehensive strategy that is being implemented on a global scale that addresses climate change; however, in California a multi-agency "Climate Action Team," has identified a range of strategies and the Air Resources Board, under AB 32, has approved the *Climate Change Scoping Plan.* AB 32 requires achievement by 2020 of a Statewide GHG emissions limit equivalent to 1990 emission levels, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions. The CARB and other State agencies are currently working on regulations and other initiatives to implement the *Scoping Plan.* By 2050, the State plans to reduce emissions to 80 percent below 1990 levels.

Bay Area Air Quality Management District
Air Quality CEQA Thresholds of Significance

The adopted Bay Area Air Quality Management District (BAAQMD) Air Quality CEQA Thresholds of Significance for operational-related GHG emissions is 1,100 metric tons of carbon dioxide equivalents per year or 4.6 metric tons of carbon dioxide equivalents per service population[33] per year. BAAQMD does not have an adopted threshold of significance for construction-related greenhouse gas emissions.

BAAQMD recommends using the URBEMIS model to estimate direct CO_2 emissions from the area and mobile sources. To estimate a project's CO_2e emissions from direct and indirect emission sources, BAAQMD recommends using the BAAQMD Greenhouse Gas Model (BGM). BAAQMD developed the BGM model to calculate GHG emissions not included in URBEMIS such as indirect emissions from electricity use and waste, and direct fugitive emissions from refrigerants.

4.10.1.2 General Plan Policies

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating climate change impacts resulting from planned development within the City. All future development allowed by the proposed land use designation will be subject to the policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- *Air Quality Policy No.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 No.6:* Continue to actively enforce the City's ozone-depleting compound ordinance and supporting policy to ban the use of chlorofluorocarbon compounds in packaging and in building construction and remodeling to help reduce damage in the global atmospheric ozone layer.
- *Energy Policy No.9:* The City should encourage the development of renewable energy sources and alternative fuels and cooperate with other public and quasi-public agencies.

[32] State of California Energy Commission. *2009 California Climate Adaptation Strategy Discussion Draft. Frequently Asked Questions.* August 3, 2009. <www.climatechange.ca.gov/adaptation/documents/2009-07-31_Discussion_Draft-Adaptation_FAQs.pdf> Accessed November 22, 2010.
[33] Service population is the sum of projected new residents and full time workers at the project site.

- *Transportation Policy No. 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 No. 19:* The City should encourage walking, bicycling, and public transportation as preferred modes of transportation.
- *Transportation Policy No. 23:* Each land use has different pedestrian needs. Street and sidewalk designs should relate to the function of the adjoining land use(s) and transit access points.
- *Transportation Policy No. 51:* The City should develop a safe, direct, and well-maintained transportation bicycle network linking residences, employment centers, schools, parks, and transit facilities and should promote bicycling as an alternative mode of transportation for community as well as for recreation.

In addition, the *San José Green Vision* 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 ten 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 20 percent;
3. Receive 100 percent of electrical power from clean renewable sources;
4. Build or retrofit 50,000 square feet of green buildings;
5. Divert 100 percent of waste from the landfill and convert waste to energy;
6. Recycle or beneficially reuse 100 percent of 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 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) which 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 is subject to this policy. A commercial project equal to or greater than 25,000 square feet is required to achieve a Silver rating under the Leadership in Energy and Environmental Design program (LEED).[34]

In addition, the City is currently preparing a Greenhouse Gas Reduction Strategy for San José 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

[34] The LEED program was established by the US Green Building Council (USGBC).

Reduction Strategy will include community input and is anticipated to be completed by the end of 2010.

4.10.1.3 Existing Conditions at the Project Site

Currently, the project site is developed with a 102,820 sf, two-story industrial/warehouse building, a 10,866 sf, one-story commercial building (currently occupied by a restaurant), a 4,655 sf one-story house that was used as office and storage space by the Sun Garden Packing Company, and surface parking lots. All three buildings are located in the southern portion of the site. The northern portion of the site is currently vacant.

4.10.2 Greenhouse Gas Impacts

4.10.2.1 Thresholds of Significance

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

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

4.10.2.2 Greenhouse Gas Emissions from the Project

Given the overwhelming scope of global climate change, it is not anticipated that a single development project would have an individually discernable effect on global climate change. It is more appropriate to conclude that the greenhouse gas emissions generated by the proposed project would combine with emissions across the State, nation, and globe to cumulatively contribute to global climate change.

Greenhouse gas emissions from the proposed project would include emissions from construction and operation of the project. The greenhouse gas emissions from the project include:

- Demolition emissions;
- Construction emissions;
- Emissions from the manufacture and transport of building materials;
- Mobile emissions (e.g., emissions from combustion of fossil fuels for vehicle trips to and from the site);
- Emissions from the generation of electricity to operate lighting, appliances, and HVAC on the site, and to convey water to the site and natural gas for heating; and
- Solid waste and sewage treatment disposal.

The URBEMIS 2007 and BGM models were used to estimate direct and indirect greenhouse gas emissions from the proposed project including greenhouse gases emitted from construction, transportation, electricity, natural gas, water and wastewater, and solid waste. Reductions in the electricity, area source, and mobile source emissions were applied to the models to reflect the measures that the project proposes (as well as the project's compliance with the City's Private Sector Green Building Policy) to reduce energy (e.g., electricity and fuel) consumption. The specific measures which the project is incorporating are discussed below.

Measures to Reduce Greenhouse Gas Emissions

The project will incorporate the following features to reduce GHG emissions:

- Energy efficiency rated at 20 percent greater than Title 24[35] requirements;
- Use of regional, renewable, and recycled building materials;
- Cool roofs;
- Low VOC paints and sealants; and
- Drought tolerant landscaping and low flush toilets to reduce water consumption

In addition, the best management practices outlined in Section 4.9 *Air Quality,* which are proposed to reduce air quality impacts, would also reduce greenhouse gas emissions during construction. The project would participate in the City's Construction and Demolition Debris Recycling Program by recycling or diverting at least 50 percent of materials generated for discards in order to reduce the amount of demolition and construction waste going to the landfill.

Construction Greenhouse Gas Emissions (Short Term Emissions)

As discussed previously, BAAQMD does not have an adopted threshold of significance for construction related GHG emissions. Construction of the project would involve emissions associated with equipment and vehicles used to construct the proposed retail center, as well as emissions associated with manufacturing materials used to construct the project. There are, however, no reliable methods to estimate construction-related emissions associated with the manufacturing or project materials.

URBEMIS 2007 was used to calculate CO_2 emissions generated from the proposed project annually over a period of one year (the approximate construction period for the project). It is estimated that construction of the retail center would generate a total of 399 metric tons of CO_2

As previously mentioned, the project would participate in the City's Construction and Demolition Debris Recycling Program by recycling or diverting 50 percent of materials generated for discards by the project in order to reduce the amount of demolition and construction waste going into the landfill.

Construction emissions from the proposed project would be less than significant when conservatively compared to the BAAQMD 1,100 annual metric ton CO_2 threshold for operational impacts. **(Less Than Significant Impact)**

Operational Greenhouse Gas Emissions (Long Term Emissions)

The proposed project is anticipated to be in full operation by the year 2020. Existing development at the project site currently results in the release of approximately 1,974 metric tons of CO_2 per year from transportation, electricity use, natural gas use, water use, wastewater generation, and solid waste generation. It is estimated that the project would add an additional 4,337 metric tons of CO_2 equivalents per year to the existing emission rate as shown in Table 19, below:

[35] Title 24 of the California Code of Regulations sets energy efficiency standards for residential and non-residential buildings. The regulations were established in 1978 and are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods.

TABLE 19 Estimated Operational Greenhouse Gas Emissions 2020*			
Source of Greenhouse Gas Emissions (CO_2 metric tons per year)	**Existing Uses CO2e (metric tons per year)**	**Proposed Project (metric tons per year)**	**Net Project Increase Converted for PG&E Rates****
Transportation	1,469	5,564	4,095
Area Source	1	0	0
Electricity	290	634	229
Natural Gas	128	60	-67
Water and Wastewater	3	10	4
Solid Waste	83	159	76
Total	**1,974**	**6,428**	**4,337**

* Calculations account for features proposed by the project which will reduce greenhouse gas emissions as previously discussed (e.g., drought tolerant landscaping).
**Emissions associated with electricity consumption output by the BGM model were adjusted to account for PG&E's lower-than-average emission rate. BGM uses a Statewide rate of 805 pounds of $C0_2$ per mega watt of electricity produced, while the CARB certified average rate for PG&E between 2004 and 2007 is 537 pounds per megawatt.

The project would result in GHG emissions of 6,428 metric tons of CO_2 annually. The greenhouse gas significance was evaluated by assessing the greenhouse gas emissions efficiency of the project. The project GHG efficiency is computed by dividing the total annual site emissions (6,428 CO_2 metric tons/year) by the projected service population. The service population is the sum of the projected project population and workforce. The project does not include residences. The workforce for the retail uses were computed as 515 employees based upon one worker per 500 square feet of retail space. The project would have annual emissions of 12.5 metric tons of CO_2 per year per capita, which exceeds the BAAQMD threshold of 4.6 metric tons of CO_2 per year per capita.

The project will conflict with the BAAQMD thresholds which were adopted for the purpose of reducing the emissions of greenhouse gases. The project will generate GHG emissions at levels which are considered to contribute a significant impact on the environment.

Impact GHG-1: The project will exceed the BAAQMD thresholds for GHG emissions and will generate emissions at levels which are considered to have a significant cumulative impact on the environment. **(Significant Impact)**

4.10.3 Mitigation and Avoidance Measures for Greenhouse Gas Impacts

Avoidance measures will reduce GHG emissions slightly, however as indicated in Table 19 above, emissions from operation of retail development are mostly associated with vehicle travel and cannot be reduced enough to reduce GHG emissions below the BAAQMD thresholds. The project, therefore, will result in significant and unavoidable levels of GHG emissions. In addition to conforming to the General Plan policies listed above (Section 4.10.1.2), the project shall include the following features to reduce vehicle travel and energy consumption that make up the majority of significant greenhouse gas emissions associated with the proposed project:

- Bicycle amenities will be provided for the project, including one or more of the following: secure bicycle parking for retail employees, bicycle racks for retail customers, and bike lane connections to the site.
- Pedestrian facilities will include easy access and signage to bus stops and roadways that serve the major site uses (e.g. retail and office uses).

- Project site employers may be required to promote transit use by providing transit information and incentives to employees.
- Provide exterior electrical outlets to encourage use of electrical landscape.
- Provide 110- and 220-volt electrical outlets at loading docks for trucks with refrigeration units.
- Prohibit idling of trucks at loading docks for more than five minutes per State law and include signage indicating such a prohibition.
- Implement a landscape plan that provides drought tolerant shade trees along pedestrian pathways.
- Install programmable thermostat and lighting timers that maximizing and maintaining energy-efficient heating and cooling systems
- During final design, the applicant shall develop Green Building standards that would reduce energy-related GHG emissions beyond 20 percent from those that would occur under current Title 24 Building Code requirements. The applicant shall present these to the City prior the issuance of a building permit.

4.10.4 Conclusion

Implementation of the identified General Plan polices and mitigation measures will reduce the levels of GHG emissions from the project. GHG emissions associated with retail development are mostly associated with vehicle travel and in the case of such a large retail development, cannot be reduced to levels below the BAAQMD thresholds. As a result, GHG emissions from the project are considered significant and unavoidable. **(Significant and Unavoidable Impact)**

4.11 NOISE

4.11.1 Existing Setting

4.11.1.1 Fundamental Concepts of Environmental Acoustics

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

In addition to the concepts of pitch and loudness, there are several noise measurement scales which are used to describe noise in a particular location. A decibel (dB) is a unit of measurement which indicates the relative amplitude of a sound. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. An increase of 10 decibels represents a ten-fold increase in acoustic energy, while 20 decibels is 100 times more intense, 30 decibels is 1,000 times more intense, etc. There is a relationship between the subjective noisiness or loudness of a sound and its intensity. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness over a fairly wide range of intensities.

There are several methods of characterizing sound. The most common in California is the A-weighted sound level or dBA. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. A list of common outdoor and indoor noise levels is shown in Table 20 below.

TABLE 20
Typical Noise Levels

Common Noise Sources	Noise Level in dBA
Jet fly-over at 300 meters/Indoor Rock Concert	110-120
Pile driver at 20 meter	100
Night club with live music	90-100
Large truck pass by at 15 meters	80-90
Noisy restaurant	80
Garbage Disposal at one meter	70-80
Gas lawn mower at 30 meters/Vacuum cleaner at three meters	70
Commercial-Urban area daytime/normal speech at one meter	60-70
Suburban Expressway at 90 meters	60
Suburban area daytime/active office environment	50-60
Urban area nighttime/Quiet office environment	40-50
Suburban area nighttime	30-40
Quiet rural area/Library	30
Quiet bedroom at night	20-30
Wilderness area	20

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

The scientific instrument used to measure noise is the sound level meter. Sound level meters can accurately measure environmental noise levels to within about plus or minus 1 dBA. Various computer models are used to predict environmental noise levels from sources, such as roadways and airports. The accuracy of the predicted models depends upon the distance the receptor is from the noise source. Close to the noise source, the models are accurate to within about plus or minus 1 to 2 dBA.

In determining the daily level of environmental noise, it is important to account for the difference in responses of people to daytime and nighttime noises. During the nighttime, exterior background noises are generally lower than the daytime levels. However, most household noise also decreases at night and exterior noise becomes very noticeable. Since the sensitivity to noise increases during the evening and at night, mainly because excessive noise interferes with the ability to sleep, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Community Noise Equivalent Level, CNEL, is a measure of the cumulative noise exposure in a community, with a 5 dB penalty added to evening (7:00 pm - 10:00 pm) and a 10 dB addition to nocturnal (10:00 pm - 7:00 am) noise levels. The Day/Night Average Sound Level, Ldn, is essentially the same as CNEL, with the exception that the evening time period is dropped and all occurrences during this three-hour period are grouped into the daytime period.

4.11.1.2 Regulatory Background – Noise

The State of California and the City of San José have established guidelines, regulations, and policies designed to limit noise exposure at noise sensitive land uses. Appendix E of the State CEQA Guidelines, the State of California Building Code, and the City of San José General Plan present the following applicable criteria:

State CEQA Guidelines. The California Environmental Quality Act (CEQA) contains guidelines to evaluate the significance of effects resulting from a proposed project. These guidelines have been used in this EIR as thresholds for establishing potentially significant noise impacts and are listed under Thresholds of Significance.

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

City of San José General Plan. In the City of San José General Plan, Figure 16 shows the noise levels considered consistent with specific land uses. For commercial land uses, outdoor noise levels of up to 60 decibels are considered acceptable and up to 80 decibels are conditionally acceptable[36].

[36] Conditionally acceptable allows new construction or development to be undertaken only after a detailed analysis of the noise reduction requirement is made and needed noise insulation features are included in the design.

The General Plan noise standards are the thresholds the City uses to evaluate the environmental impacts due to noise resulting from a project.

City of San José Municipal Code. Section 20.40.600 of the San José Municipal Code shows the noise levels considered consistent with commercial zoning designations. For the proposed land use, outdoor noise levels of up to 60 decibels are considered acceptable.

4.11.1.3 Existing Noise Environment

The project site is located southeast of the E. Alma Avenue/Monterey Road intersection. The site is bound by commercial development to the north and south, industrial development and a rail line to the east, and Monterey Road to the west. The only noise sensitive land uses in the project area are the single-family residential neighborhoods located just off the west side of Monterey Road. The nearest neighborhood is located approximately 270 feet west of the project site.[37] There are also single-family neighborhoods north of E. Alma Avenue. Between the project site and the nearest residential neighborhood is a six lane public roadway (Monterey Road) and a row of commercial/retail buildings.

The existing noise environment in the project area is created primarily by vehicular traffic from E. Alma Avenue and Monterey Road, the rail line to the east of the project site, and to a lesser extent, aircraft associated with the nearby Norman Y. Mineta San José International Airport. While automobile traffic is a fairly constant noise source, the rail line is only used two to four times a month[38]. As a result, noise from the rail line is negligible.

Based on previous noise studies in the project area, traffic along Monterey Road (measured at a distance of 75 feet from the centerline of the roadway) generated a DNL noise level of 76 dBA with hourly average noise levels ranging from 71 to 77 dBA L_{eq}[39].

4.11.2 Noise Impacts

4.11.2.1 *Thresholds of Significance*

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

- Exposure of persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- Exposure of persons to, or generate excessive groundborne vibration or groundborne noise levels; or
- Create a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project; or
- Create a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project; or
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

[37] As measured from the western property line of the project site to the nearest eastern residential property line.
[38] Personal Communication, Henry Cord, Project Coordinator, Sun Garden Retail Center.
[39] City of San José. *Goble Lane Mixed-Use Development for Planned Development Rezoning Draft Environmental Impact Report/Environmental Assessment.* April 2005

- 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.

4.11.2.2 Noise Impacts to the Project Site

Based on available data, it is estimated that future site users will be exposed to exterior noise levels of 76 decibels or higher mostly due to traffic on Monterey Road. The exterior noise environment at the project site already exceeds 60 dBA, which is the City's "normally acceptable" noise level standard for commercial land uses. Standard construction techniques can attenuate exterior noise levels to acceptable indoor levels. In addition, all the buildings will be set back from Monterey Road, with the majority of the buildings being set back approximately 400 feet from the centerline of the roadway. The separation between the buildings and the roadway will further reduce the perceptible noise from the interior of the buildings. The project does propose an outdoor sales area, but this area is flanked on three sides by a building. The building will shield the area from roadway and rail noise.

The proposed project is not within an airport land use plan or within two miles of a public airport or private airstrip. As a result, the project will not expose site users to excessive noise levels from aircraft fly-overs.

Implementation of the proposed project will not expose future site users to excessive noise levels. **(Less Than Significant Impact)**

Groundborne Noise and Vibration

The only source of possible groundborne noise and vibration would be the rail line to the east of the project site which is only used two to four times a month. Based on the substantial amount of existing buildings adjacent to the rail line that are not affected by the current rail activity, it is reasonable to assume that groundborne noise and vibration caused by rail activity is low and likely not perceptible to site users. Therefore, implementation of the proposed project will not expose future site users to excessive groundborne noise and vibration. **(Less Than Significant Impact)**

4.11.2.3 Project-Generated Traffic Noise Impacts

Based upon the traffic study prepared by *Hexagon Transportation Consultants* (see Section 4.8, *Transportation and Circulation)*, traffic noise levels would increase slightly as a result of the project. A noise increase is considered substantial if it increases the ambient noise level by three decibels or more in sensitive noise areas. A three decibel increase is equivalent to a doubling of traffic on local roadways.

Project traffic would result in incremental traffic noise increases but would not double the amount of traffic on Monterey Road or E. Alma Avenue and, therefore, will not noticeably increase the ambient noise level of the project area. The existing noise-sensitive land uses on the west side of Monterey Road would not experience a noticeable increase in ambient noise levels. Future project traffic will, therefore, result in a less than significant noise impact. **(Less Than Significant Impact)**

4.11.2.4 Construction Impacts

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during the construction of project infrastructure when heavy equipment is used.

Typical average construction generated noise levels are about 81 – 89 decibels measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about six decibels per doubling of distance between the source and receptor.

The proposed project will likely be built over the course of one year. The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible in the residential neighborhood west of the project site.

Impact NOI-1: Construction of the proposed project will temporarily increase ambient noise levels at nearby sensitive land uses. **(Significant Impact)**

4.11.3 Mitigation and Avoidance Measures for Noise Impacts

4.11.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. The following General Plan policy would reduce temporary construction noise impacts:

- *Noise Policy 1* states that the City's acceptable noise level objectives are 55 DNL as the long-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. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International and Reid-Hillview airports, the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.

- *Noise Policy 9* states that construction operations should use available noise suppression devices and techniques.

4.11.3.2 Mitigation Measures

Implementation of the following mitigation measures will reduce temporary construction impacts to a less than significant level:

- Construction will be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. 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.

- Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9:00 am and 5:00 pm. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building and Code Enforcement, at his discretion, may rescind

provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

- The contractor shall use "new technology" power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.

- 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.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- Unnecessary idling of internal combustion engines shall be prohibited.

- The contractor shall prepare a detailed construction plan, to be approved by the Director of Planning, Building and Code Enforcement, identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.

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

4.11.4 Conclusion

Implementation of the identified General Plan policy and standard measures will reduce temporary construction noise impacts to a less than significant level. **(Less Than Significant Impact with Mitigation)**

4.12 UTILITIES AND SERVICE SYSTEMS

The following information is based in part on data provided by *Kier & Wright Civil Engineers*. The data can be found in Appendix E of this report.

4.12.1 Existing Setting

4.12.1.1 Water Service

Currently, there are three buildings on-site that generate a demand for water. Water service to the site is supplied by San José Water Company. The City of San José owns and maintains the water lines that serve the project site. The project site is currently supplied by a 12.75-inch water line in Monterey Road.

Using the sanitary sewer discharge rates established by the Industrial Waste Division of the San José Water Pollution Control Plant (WPCP), the sewer rates for the three existing building were calculated (see Table 21 in Section 4.12.1.2). Based on the sewer rates, the water demand of the three buildings was calculated.[40] Currently, the project site has a total water demand of 19,734 gallons per day (gpd).

4.12.1.2 Sanitary Sewer/Wastewater Treatment

Wastewater from the City of San José is treated at the San Jose/Santa Clara Water Pollution Control Plant (WPCP), located near Alviso. The WPCP is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's Department of Environmental Services. The WPCP provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day (mgd).[41]

The WPCP is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the State Water Resources Control Board and the Regional Water Quality Control Board concerns over the effects of additional freshwater discharges from the WPCP on the saltwater marsh habitat, and pollutant loading to the Bay from the WPCP. Approximately ten percent of the plant's effluent is recycled for non-potable uses and the remainder flows into San Francisco Bay.

The City of San José owns and maintains the sanitary sewer system which serves the project site. The project site currently drains into a 12-inch sewer line that transitions into a 24-inch line in Monterey Road.

On-Site Conditions

Using the sanitary sewer discharge rates established by the Industrial Waste Division of the San José Water Pollution Control Plant (WPCP), the sewer rates for the three existing building were calculated. The results are shown in Table 21 below.

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[40] Sanitary sewer discharge is equal to 0.85 percent of the total water usage. It is generally assumed that 85 percent of a buildings water demand is used inside and 15 percent is used outside. Water used outside a building does not discharge into the sanitary sewer system.

[41] City of San José Website. http://www.sanjoseca.gov/

TABLE 21 Sanitary Sewer Discharge for the Existing Buildings On-Site			
Building	**Sewer Rate**	**Total Building Square Footage**	**Total Sewer Discharge in GPD**
Warehouse	0.052	100,820	5,243
Restaurant	1.040	10,866	11,301
Office	0.052	4,655	242

4.12.1.3 Storm Drainage System

The City of San José owns and maintains the storm drainage system which serves the project site. The project site currently drains into a 36-inch stormdrain line in Monterey Road. The storm drainage lines discharge into Guadalupe River located west of the project site.

There is no overland release of stormwater directly into any creek from the project site; all stormwater drains into the existing stormwater drainage system.

4.12.1.4 Solid Waste

Waste collection and recycling services are available to most businesses from private companies franchised by the City of San José. The project site currently generates approximately 6,049 pounds of solid waste per day.[42] Table 22 below shows the breakdown of current solid waste generation on-site.

TABLE 22 Solid Waste Generation Under Existing Conditions			
Building	**Waste Generation Rate**	**Building Size**	**Solid Waste Generated (pounds per day)**
Warehouse	0.0108 tons per square foot of building area per year	100,820	5,967
Restaurant	0.005 pounds per day per square foot of building area	10,866	54
Office	6 pounds per day per 1,000 square feet of building area	4,655	28

4.12.2 Utilities Impacts

4.12.2.1 *Thresholds of Significance*

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

- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- Not have sufficient water supplies available to serve the project from existing entitlements and resources and require new or expanded water supplies entitlements to serve the project;

[42] Based on solid waste generation rates from the California Integrated Waste Management Board. Accessed November 22, 2010. http://www.calrecycle.ca.gov/wastechar/wastegenrates/

- 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;
- 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;
- Result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments;
- Be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs; or
- Would not comply with federal, state, and local statutes and regulations related to solid waste.

4.12.2.2 Water Impacts

The existing industrial and commercial land uses use approximately 19,734 gallons of water per day. Implementation of the proposed project would result in the use of up to approximately 49,261 gallons of water per day. As a result, the proposed project would increase the demands upon water supply (by approximately 29,527 gallons per day) compared to the current land use. Based on an analysis of projected water use by San José Water Company (the water supplier for this site) the proposed project would not exceed the capacity of the water supplier or the water supply lines. **(Less Than Significant Impact)**

4.12.2.3 Sanitary Sewer/Wastewater Impacts

The existing use on the project site generates approximately 16,786 gallons of sewage a day. The proposed project would generate up to approximately 47,034 gallons of sewage a day, an increase of approximately 22,968 gallons compared to the current industrial/commercial development. As a result, the proposed project would increase the demands upon sanitary sewer system compared to the current land use, but would be not exceed the capacity of the wastewater lines that serve the project site or the wastewater treatment plant.[43] **(Less Than Significant Impact)**

4.12.2.4 Storm Drainage Impacts

Implementation of the proposed project would result in a mix of paved and landscaped surfaces. Under existing conditions, approximately 34 percent of the project site is impervious. The proposed project will result in approximately 745,890 square feet (approximately 87 percent) of the project site being covered in impervious surfaces, an increase of 53 percent. As a result, the proposed project would increase the demands upon the storm drainage system compared to the current land use, but would be not exceed the capacity of the stormdrain lines that serve the project site.[44] **(Less Than Significant Impact)**

4.12.2.5 Solid Waste Impacts

Implementation of the proposed project will result in construction waste as well as an ongoing increase in solid waste generated within the City of San José. Operation of the proposed project

[43] Personal Communication. Vivian Tom, Civil Engineer I/II, Department of Public Works, City of San José.
[44] Personal Communication. Vivian Tom, Civil Engineer I/II, Department of Public Works, City of San José.

would result in approximately 11,835 pounds per day (ppd) of solid waste, a net increase of 5,786 ppd.[45]

In 2009, the City of San José diverted 70 percent of the total solid waste collected from local landfills.[46] Based on the City's *Zero Waste Strategic Plan* and the City's *Green Vision*, the City's goal is to divert 75 percent of the total solid waste collected by 2013 and 100 percent by 2022. The City intends to implement a new commercial collection system in 2012 that will help commercial properties to recycle more materials and decrease solid waste disposed of at the local landfills.

The Newby Island Landfill, located in San José, has an agreement with the City to provide disposal capacity through 2024. While increased recycling will extend the useful life of the landfill, the project will still result in a net increase in solid waste generation. Nevertheless, new landfill facilities will not need to be contracted with or constructed to service the proposed project. **(Less Than Significant Impact)**

4.12.3 Standard Avoidance Measures for Utilities Impacts

4.12.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigation environmental effects resulting from planned development within the City. While no significant utilities impacts have been identified, any future development under the proposed General Plan amendment would be subject to existing General Plan policies, including those listed below.

- *Water Resources, Policy 11* states that the City should encourage more efficient use of water by promoting water conservation and the use of water-saving devices.

- *Water Resources, Policy 12* states that the City should promote the use of recycled water when feasible and appropriate.

- *Water Resources, Policy* 13 states that for all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff, striving for zero increase in offsite runoff compared to natural or pre-developed conditions.

- *Flooding, Policy 7* states that the City should require new urban development to provide adequate flood control and stormwater retention facilities.

- *Services and Facilities, Level of Service, Policy 9* states that the City should continue to encourage water conservation and other programs which result in reduced demand for sewage treatment capacity.

[45] Based on solid waste generation rates from the California Integrated Waste Management Board. Accessed November 22, 2010. http://www.calrecycle.ca.gov/wastechar/wastegenrates/Commercial.htm Because the actual mix of uses on-site are not known, a general usage rate for commercial retail of 0.046 pounds per square foot per day was used.
[46] City of San José Website: http://www.sanjoseca.gov/esd/ Accessed November 23, 2010.

4.12.3.2 Project Specific Mitigation

No mitigation is required or proposed.

4.12.4 Conclusion

The proposed project would not require substantial new utility lines and would not exceed the capacity of existing utility and service systems. **(Less Than Significant Impact)**

4.13 ENERGY

The following analysis is based, in part, on the Air Quality and Greenhouse Gas analysis completed by *Illingworth & Rodkin* in November 2010. The report can be found in Appendix D of this EIR.

This section was prepared pursuant to CEQA Guidelines Section 15126.4 (a)(1)(C) and Appendix F which requires that EIRs include a discussion of the potential energy impacts of proposed projects with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. Environmental impacts associated with energy consumption include the depletion of nonrenewable resources (oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases. The information in this section is based largely on data and reports produced by the California Energy Commission and the Energy Information Administration of the U.S. Department of Energy.

4.13.1 Existing Setting

Energy usage is typically quantified using the British Thermal Unit (BTU).[47] For reference, the approximately amount of energy contained in a gallon of gasoline is 123,000 BTUs, a cubic foot of natural gas is 1,000 BTUs, and a kilowatt hour (kWh) of electricity is 3,400 BTUs.

Total energy usage in California was 8,490 trillion BTUs in the year 2007 (the most recent year that specific data is available). Of California's total energy usage in 2000, the breakdown by sector was 18 percent residential, 19 percent commercial, 23 percent industrial, and 40 percent transportation.[48] This energy was primarily supplied in the form of petroleum, natural gas, nuclear electric power, and hydroelectric power.

Many Federal, State, and local statutes and policies address energy conservation. At the Federal level, energy standards apply to numerous products (e.g., the EnergyStar™ program) and transportation (fuel efficiency standards). At the State level, Title 24 of the California Administrative Code sets forth energy standards for buildings, rebates/tax credits are provided for installation of renewable energy systems, and the *Flex Your Power* program promotes conservation in multiple areas.

Given the nature of the proposed project, the remainder of this discussion will focus on the three most relevant sources of energy for this project: electricity and natural gas for commercial retail uses and gasoline for vehicle trips associated with commercial retail uses.

4.13.1.1 Electricity and Natural Gas

Electricity is provided to the City of San José by Pacific Gas & Electric (PG&E). The State of California currently requires that energy saving measures be applied to new construction through the California Building Standards Code.

[47] A BTU is the amount of energy that is required to raise the temperature of one pound of water by one degree Fahrenheit.

[48] United States Energy Information Administration. California State Energy Profile. http://tonto.eia.doe.gov/state/state_energy_profiles.cfm?sid=CA#Datum

Electricity

Electricity supply in California involves a complex grid of power plants and transmission lines located in the Western United States, Canada, and Mexico. The electricity is produced from power plants fueled by natural gas (46 percent), coal (18 percent), hydroelectric (11 percent), nuclear (14 percent), and renewable energy (11 percent).[49] Electricity consumption is California increase by approximately 17 percent from 245,000 gigawatt hours (GWh) in 1998 to 286,800 GWh in 2008 and is forecasted to increase another 13 percent to approximately 325,000 GWh in 2018.[50]

Most electricity used in California is consumed by the commercial sector (37 percent), residential sector (32 percent), and industrial sector (15 percent).[51] The average annual usage of electricity is approximately 6,480 kWh per household.[52]

The existing buildings on the project site use approximately 1,190,000 kWh of electricity per year.

Natural Gas

In 2006, natural gas was used to produce electricity (44 percent), in industrial uses (23 percent), in commercial uses (10 percent), and in residential uses (22 percent), and for transportation (less than one percent). California imports 85 percent of its natural gas supplies from other states and Canada. California's natural gas supplies are increasingly threatened by declining production in the United States and growing demand in neighboring states.[53]

Natural gas usage in California for differing land uses varies substantially by the type of uses in a building, type of construction materials used in a building, and the efficiency of all gas-consuming devices within a building.

As California strives to reduce greenhouse gas emissions, natural gas sources and use will depend on new technologies (e.g., hybrid vehicles, solar heating) and methods of supply (e.g., liquefied natural gas shipped by tanker, biogas). These developments will depend on and influence natural gas supplies and contribute to the uncertainty in past and future projections.[54]

The existing buildings on the project site use approximately 1,404,000 cubic feet of natural gas per year.

4.13.1.2 Gasoline for Motor Vehicles

California is the third highest producer of transportation fuels in the nation, with a crude oil distillation capacity of more than 2.0 million barrels per day.[55] Approximately 38 percent of crude oil used in California is produced in-state, while 14 percent comes from Alaska and 48 percent from

[49] California Energy Commission. Energy Almanac, Total Electricity System Power. http://www.energyalmanac.ca.gov/electricity/total_system_power.html
[50] California Energy Commission. 2009 integrated Energy Policy Report. December 2009.
[51] Ibid.
[52] Pacific Gas & Electric. Carbon Footprint Calculator Assumptions. http://www.pge.com/myhome/environment/calculator/assumptions.shtml Accessed November 24, 2010.
[53] California Energy Commission. 2007 Integrated Energy Policy Report.
[54] California Energy Commission. 2007 Integrated Energy Policy Report.
[55] United States Energy Information Administration, "California State Energy Profile." Available at: http://tonto.eia.doe.gov/state/state_energy_profiles.cfm?sid=CA#Datum.

foreign sources.[56] Californians currently use roughly 49.5 million gallons of gasoline and diesel each day. According to the California Energy Commission's *2009 Integrated Energy Policy Report*, California is experiencing a downward trend in sales of gasoline, diesel, and jet fuel. It is expected that gasoline consumption will decrease in the future largely due to high fuel prices, efficiency gains, competing fuel technologies, and mandated increases of alternative fuel use.

The average fuel economy for the fleet of light-duty vehicles (autos, pickups, vans, and SUVs) steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970s to the 21.1 mpg (estimated 2009 rate).[57] At this rate, driving 12,000 miles in a year would equate to an annual gasoline usage of approximately 570 gallons. In December 2007, the Energy Independence and Security Act of 2007 was signed which mandates a national fuel economy standard of 35 miles per gallon by 2020.

Although no new refineries have been constructed in California since 1969, supply has kept pace with demand through a combination of refinery upgrades/modernizations and out-of-state imports.

There is no direct usage of gasoline on the project site. Indirectly, gasoline is consumed by the project site through vehicle trips by workers associated with the site and by vehicle trips generated by restaurant patrons and delivery trucks.

4.13.2 Energy Impacts

4.13.2.1 Thresholds of Significance

For this project, an energy impact is considered significant if the project would result in:

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

Indirect Impacts of the Proposed Project

Indirectly, the most prevalent form of energy use from operation of the proposed retail development would be associated with vehicle travel. Retail development generates large amounts of vehicle trips as people go to/from work and others seek goods and services. The project includes features to reduce vehicle travel which makes up a large part of the energy consumption associated with the project (see Section 4.10, *Greenhouse Gas Emissions)*.

The project will place a retail center in close proximity to residential development located west of the site across Monterey Road. The location of the project will reduce vehicle miles traveled because some San José residents may be employed on-site and will not have to drive to other cities for work. In addition, nearby residents will likely shop at the proposed retail center. Because the project will add jobs within the City, the project will help to correct the City's jobs/housing imbalance and result in shorter overall distances between jobs and housing. **(Beneficial Impact)**

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[56] California Energy Commission, *2009 Integrated Energy Policy Report* (CEC-100-2009-003-CMF), 2009. Page 148.

[57] United States Environmental Protection Agency, *Light-Duty Automotive Technology, Carbon Dioxide Emissions and Fuel Economy Trends: 1975 through 2009*, November 2009. Page iii. Available at: http://www.epa.gov/oms/cert/mpg/fetrends/420s09001.pdf.

Operational Impacts of the Proposed Project

The project site is expected to be fully operational in the year 2014. Using standard building techniques the buildings on-site would use approximately 3,254,000 kWh of electricity per year, and 1,418,000 cubic feet of natural gas per year. The project, however, commits to energy reduction at 20 percent below Title 24 standards and energy use, therefore, will be reduced to approximately 2,603,200 KWh of electricity per year and 1,134,400 cubic feet of natural gas per year. Taking into account the 20 percent energy reduction, the project would result in a net increase of 1,413,200 KWh of electricity use per year and a net decrease of 269,600 cubic feet of natural gas per year[58] for the entire project site.[59]

As mentioned above, the approximate amount of energy contained in a cubic foot of natural gas and a kilowatt hour (kWhr) of electricity are 1,000 BTUs and 3,400 BTUs, respectively. Converted to BTUs, total direct energy usage (electricity and natural gas) as a result of the proposed project would be approximately 9.9 billon BTU's per year, which is a 55 percent increase of total energy use over existing conditions at the project site. Construction and operation of the project will result in a substantial net increase in energy usage. The project will, however, include measures that will improve energy efficiency at the project site to 20 percent greater than Title 24 standards. The project will also be required to conform to the City's Green Building Code. The project, in conformance with these policies, will not result in the wasteful use of energy and will not exceed projected supplies. **(Less Than Significant Impact)**

4.13.3 Avoidance Measures for Energy Impacts

4.13.3.1 General Plan Policies

The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating energy impacts resulting from planned development within the City. Conformance with the following General Plan policy would reduce energy impacts:

- *Energy Policy 4* states that 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 air passive cooling protection from prevailing winds and maximum year-round solar access.

4.13.3.2 Avoidance Measures

The measures to reduce energy consumption listed below would further decrease any potential energy impacts of the proposed project. Unless determined by the City Council to be infeasible, these measures will be required as conditions of approval for the project.

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[58] Natural gas usage for the proposed project is less than the existing uses because the existing use includes natural gas calculations for a restaurant land use. Restaurants are assigned a relatively high natural gas usage rate in the BGM model. Because the actual mix of uses on-site are not known, the proposed project was coded as general retail in the BGM model which is assigned a lower usage rate.

[59] Calculations are based upon BGM model outputs and usage rates used in calculations for the greenhouse gas analysis completed by *Illingworth and Rodkin, Inc.* in November 2010 for the proposed project. Energy rates for the project were provided via e-mail correspondence dated November 23, 2010.

- The project shall be designed to meet the City's Green Building Code requirements. Final green building design features must be approved by the Director of Planning and Inspection.

- The project shall include reflective, *EnergyStar*™ cool roofs. Cool roofs decrease roofing maintenance and replacement costs, improve building comfort, reduce impact on surrounding air temperatures, reduce peak electricity demand, and reduce waste stream of roofing debris.

- The project shall utilize local and regional building materials to the extent feasible in order to reduce energy consumption associated with transporting materials over long distances.

- The project shall utilize building products that contain post-consumer recycled materials.

4.13.4 Conclusion

The project will add jobs to the City and place a retail center in close proximity to existing residential land uses. The project will result in shorter overall distances between jobs and housing for some City residents and reduce vehicle miles traveled for local users of the retail center. Therefore, the proposed project will have a beneficial impact on indirect energy consumption (i.e., gasoline). **(Beneficial Impact)**

The proposed project would be infill development and would exceed existing State and Federal regulations regarding the energy efficiency of buildings, appliances, lighting, etc. Therefore, the proposed project will not result in the wasteful use of energy. The project will result in a 55 percent net increase in energy consumption compared to the existing land uses, but will not exceed available energy supplies. **(Less Than Significant Impact)**

Unlike utility services, public facility services are provided to the community as a whole, usually from a central location or from a defined set of nodes. The resource base for delivery of the services, including the physical service delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery agency can be a city, county, service or other special district. Typically, new development will create an incremental increase in the demand for these services; the amount of demand will vary widely, depending on both the nature of the development (residential vs. commercial, for instance) and the type of services, as well as on the specific characteristics of the development (such as senior housing vs. family housing).

The impact of a particular project on public facilities services is generally a fiscal impact. By increasing the demand for a type of service, a project could cause an eventual increase in the cost of providing the service (more personnel hours to patrol an area, additional fire equipment needed to service a tall building, etc.). That is a fiscal impact, however, not an environmental one.

CEQA does not require an analysis of fiscal impacts. CEQA analysis is required if the increased demand triggers the need for a new facility (such as a school or fire station), since the new facility would have a physical impact on the environment.

For the purposes of the EIR, a public facilities and services impact is considered significant if the project would result in substantial adverse physical impacts associated with the provision or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, or other public facilities.

5.1 Police Services

Police services for the City of San José are provided by the San José Police Department (SJPD). The SJPD has 1,260 sworn officers, 365 civilian employees and 160 reserves.[60] Police headquarters is located at 201 W. Mission Street. Level of Service Policy No. 18 of the General Plan states that for police protection, a response time of six minutes or less for 60 percent of all Priority 1 call and 11 minutes or less for 60 percent of all Priority 2 calls should be achieved.

The City has four patrol divisions, which are divided into 16 patrol districts, and further divided into 83 beats or 357 beat building blocks (BBB). The project site is located in BBB 228. In 2009, the most frequent calls for service in the City were for disturbance, alarms, vehicle stops, pedestrian stops, and welfare checks.[61]

The proposed commercial development would incrementally increase the total population of San José during standard business hours, but would not permanently increase the population because no housing is proposed as part of the project. The project would be constructed in conformance with current codes and the project design will be reviewed by the City of San José Police Department to ensure that it incorporates appropriate safety features to minimize criminal activity.

[60] Personal Communication. Lorraine Mayo, Principal Office Specialist, Police Personnel, City of San José Police Department. September 10, 2010.
[61] City of San José Police Department. Public CADmine FAQ's. City of San José. 2009. http://www.sjpd.org/CrimeStats/PoliceDataFAQ.html

New facilities would not be required to provide additional police services to serve the proposed project.

5.2 Fire Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The fire department currently consists of 33 active stations serving an area of 205 square miles and over one million residents. Two stations within the City are currently closed. The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the project area. Level of Service Policy No. 18 of the General Plan states that for fire protection, there should be a four minute response time to all calls.

Station No. 30 is the closest to the project site (approximately 1.4 miles northwest of the site on Auzerais Avenue), but is one of two closed stations in the City. Station 26, located approximately 1.5 miles southeast of the project site at 528 Tully Road, is the nearest open station and would serve the project site.

The existing condition on the project site creates a demand for fire services because the site is partially occupied. The proposed project would result in a net increase in the total square footage of commercial/industrial building space on the site, resulting in an increase in demand for fire protection services. The proposed project will be built to applicable Fire Code standards in use when construction permits are issued, including sprinklers and smoke detectors, and will include features that will reduce potential fire hazards. Access to the site for emergency vehicles will be provided from project driveways along Monterey Road and E. Alma Avenue, built to Fire Department specifications.

Although the proposed project would incrementally increase demand for fire response and related emergency services, it will not require the development of new fire service facilities, and therefore, will not result in a significant physical impact on the environment.

5.3 Other Public Services

The proposed project is the development of a new commercial retail center and does not propose any new residential uses. An increase in retail jobs within the City may slightly increase the daily employee population of the City if employees commute from outside San José. This increase, however, would be minimal and would not result in a substantial increase in the use of local recreational facilities such as parks or libraries. Because no housing is proposed as part of the project, no new students would be directly generated by the implementation of the proposed project. Therefore, the proposed project will not have an impact on parks, libraries, schools or any other non-emergency public services that serve the local resident population in the City of San José.

5.4 Conclusion

Implementation of the proposed project would result in an increase in retail space on a mostly vacant lot which would incrementally increase the demand for police and fire protection services in the project area. This increased demand, however, will not result in the need to construct new police or fire facilities. Due to the nature of the proposed development, the project will not impact existing school, recreational, or library facilities. **(Less Than Significant Impact)**

SECTION 6.0 CUMULATIVE IMPACTS

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, are considerable or which compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant projects taking place over a period of time. The CEQA Guidelines state (§15130) that an EIR shall discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the potential impacts which might result from approval of past, present and reasonably foreseeable future projects, in conjunction with the proposed project.

The CEQA Guidelines advise that a discussion of cumulative impacts shall reflect both their severity and the likelihood of their occurrence. The effects of "past projects" are generally reflected in the existing conditions described in the specific sections of this EIR. "Present projects" are those approved but not yet developed. For instance, traffic from recently approved but not yet constructed and/or occupied projects is reflected in the background conditions scenario described in Section 4.8, *Transportation and Traffic.*

In order to meet the intent of the cumulative analysis requirement, the following discussion reflects the information known to the City of San José as of the date of circulation of this EIR. For the purpose of this traffic impact analysis, peak hour traffic volumes attributable to the following pending projects were included under the cumulative conditions scenario:

1. Downtown Strategy Plan 2000 (Phase 2) – The Downtown Strategy Plan project is a comprehensive plan for the development of the downtown core area of San Jose through the year 2010. The Downtown Strategy Plan includes office and retail space, hotel rooms, theater space, and up to 10,000 dwelling units. The Downtown Strategy Plan project area (downtown core) includes the areas generally to the west near Diridon Station, north to Taylor Street, to the east near San Jose State University and City Hall, and south to I-280.

2. Vision North San Jose (Phase 2) – The Vision North San Jose project represents an update to the North San Jose Area Development Policy. The Policy allows for increases in industrial square footage and provides high-density housing and retail amenities for North San Jose area workers. Specifically, Phase 2 would allow 1.5 million square feet of R&D/office and 5,353 residential units. The Policy also identifies necessary transportation improvements to support new development and creates a traffic impact fee program for new development to share the cost of those improvements. The Policy area boundaries generally include the area within San Jose north and west of I-880 or the Coyote Creek, east of the Guadalupe River and south of SR 237, as well as an area east of I-880 along Murphy Avenue as far as Lundy Avenue.

6.1 Cumulative Impacts

For each subject area, the discussions below address the following aspects of cumulative impacts:

- Would the effects of the proposed project, when combined with the effects of all past, present, and pending development result in a cumulatively significant impact on the resources in question?

- If a cumulative impact is likely to be significant, would the contribution of the proposed project to that impact be cumulatively considerable?

Based on the analysis is this EIR, the proposed project would result in a less than significant impact on land use, visual & aesthetics, geology & soils, transportation & circulation, utilities & service systems, energy, and public facilities & services and would fully mitigate impacts to air quality, vegetation & wildlife, hazards & hazardous materials, cultural resources, noise, and hydrology & water quality. As a result, the project would not contribute to a cumulatively significant impact in any of those resources areas. The project would, however, make a cumulatively significant contribution to greenhouse gas emissions.

6.1.1 Cumulative Impacts from the Proposed Project on Global Climate Change

Section 4.10, *Greenhouse Gas Emissions,* provides a project level analysis of estimated greenhouse gas emissions that would be generated by the proposed project. The analysis found that the project would exceed the established BAAQMD significance thresholds and even with incorporation of green building design features, would have a significant unavoidable impact.

Given the overwhelming scope of global climate change, it is not anticipated that a single development project would have an individually discernable effect on global climate change, even projects with emissions in excess of adopted thresholds. It is more appropriate to conclude that the greenhouse gas emissions generated by the proposed project would combine with emissions across the State, nation, and globe to cumulatively contribute to global climate change. Because the project would exceed the adopted thresholds for individual projects, it is reasonable to assume that the project's contribution to global climate change would be cumulatively considerable. **(Significant Unavoidable Cumulative Impact)**

6.1.2 Cumulative Impacts to the Proposed Project from Global Climate Change

Climate change effects expected in California over the next century could include reduced water supply, impacts from sea level rise, and increased electricity demand (particularly in the summer months).

Impacts to the project from global climate change could include reduced water availability due to droughts. The project is proposing drought resistant landscaping which would reduce the need for potable water on-site. At this time, based on recent case law, neither the State Department of Water Resources nor the Santa Clara Valley Water District has established the effects of global climate change on water supplies in California or locally.[62]

The project site is located approximately 15 miles south of San Francisco Bay (as the crow flies) and is at an elevation of 105 feet above sea level. Because of the distance from the Bay and the elevation of the site, it is not within the likely inundation areas for the predicted rise in seas level of up to 4.6 feet (by the year 2100) for San Francisco Bay.[63] The project, therefore, would not be directly impacted by sea level rise.

Energy use on the project site is likely to rise during hot summer months because energy demand for building cooling would increase. In the event regional demand exceeded supply, this could result in

[62] Santa Clarita Oaks Conservancy, et al v City of Santa Clarita, et al., Los Angeles Superior Court Case No. BS084677, August 15, 2007.
[63] Based on the sea level rise scenario adopted by the Bay Conservation and Development Commission.

temporary interruptions in power supply. For the proposed land use, this would be primarily an economic rather than an environmental impact and is not discussed further. The proposed project would not be directly impacted by the effects of global climate change to a significant extent. **(Less Than Significant Cumulative Impact)**

6.1.3 Conclusion

Implementation of the proposed project will result in a significant unavoidable global climate change impact. **(Significant Unavoidable Impact)**

SECTION 7.0 PROJECT ALTERNATIVES

Section 15126.6 of the CEQA Guidelines requires that an EIR describe a reasonable range of alternatives to the proposed project that could feasibly attain most of the project objectives while avoiding or considerably reducing any of the significant impacts of the proposed project. In addition, the No Project Alternative must be analyzed in the document.

In order to comply with the purposes of CEQA, it is necessary to identify alternatives that reduce the significant impacts that are anticipated to occur if the project is implemented, but to try to meet most of the basic objectives of the project. The Guidelines emphasize a common sense approach. The alternatives shall be reasonable, shall "foster informed decision making and public participation," and shall focus on alternatives that avoid or substantially lessen the significant impacts.

The stated objectives of the project proponent are to:

1. Create a community retail center along the southern gateway to downtown San José at Monterey/South First Street and E. Alma Avenue to further advance the Monterey Corridor Redevelopment Plan and the City of San José's Policy and Framework for the Preservation of Employment Lands.

2. Redevelop an underutilized site to revitalize the project area, introduce needed goods, services, and infrastructure to the project area, and improve the City's jobs-housing imbalance by increasing the number of jobs in San José.

3. Contribute positively to the City's desired balance between the need to house a growing population and the need to balance the City's budget, while providing acceptable levels of City service.

4. Provide San José residents an acceptable and centrally located site for shopping, dining, offices, and other services, with an adequate combination of facilities to accommodate convenient use.

5. Develop a retail center in a contemporary architectural style that commemorates the attributes of the California Mission and Mission Revival architectural styles found in the original Sun Garden Cannery complex to acknowledge the heritage of the project site.

6. Create a financially viable retail center that retains flexibility to attract high-quality tenants in an evolving, rebounding retail market.

7. Contribute to the goals of the City of San José and the San José Redevelopment Agency (Agency) for rehabilitation and revitalization of an underutilized large site generating tax increment revenue to the Agency and tax revenue to the City.

8. Strengthen the economic base of the City's Redevelopment Agency project area by providing up to 257,296 square feet of commercial space and associates employment opportunities and tax revenue.

9. Assemble property as necessary or beneficial to the creation of an integrated site plan with convenient vehicular and truck access at Monterey Road and Alma Street.

10. Add full intersection signalization along Monterey Road at Cottage Grove Avenue.

11. Contribute to the continued expansion of the City's trail system by providing pedestrian and bicycle access.

An EIR is required to include a "No Project" alternative that "compares the impacts of approving the proposed project with the impacts of not approving the proposed project."

The significant impacts identified in this EIR as resulting from the proposed project include a significant unavoidable impact due to greenhouse gas emissions. There is also a cumulatively considerable contribution to global climate change due to greenhouse gas emissions which is linked, in part, to project traffic and air pollution.

While there are no identified traffic impacts associated with the proposed project, the greenhouse gas emissions impacts are directly related to traffic generated by the project as well as operation of the proposed buildings. One logical way to reduce greenhouse gas emissions would be to reduce the amount of development. The vehicular air pollutant emissions are reduced proportionately with reductions in building size and vehicle trip generation. A reduced density alternative is discussed below.

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[64] The proposed project is a neighborhood serving retail center. The project site is located in close proximity to existing housing and is on a major thoroughfare with good transit access. Based on the location, the proposed project will have substantial pass-by trips (which reduces overall traffic trips) and is within a reasonable walking, biking, and transit distance to nearby residences. It is unlikely that an alternative location would create greater trip reduction opportunities and substantially lessen traffic trips compared to the proposed project. Therefore, an alternative location was not analyzed.

A. NO PROJECT ALTERNATIVE

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services." Since the project site is currently developed with industrial/commercial development, the alternative to the City approving the currently proposed project would be to maintain the site as is. If the project site were to remain as is there would be no new impacts. All the assumed traffic of those buildings is already on the roads so air pollutants associated with vehicle trips to and from those buildings are already accounted for in the CAP.

The "No Project" alternative would not, however, allow for new development to occur on the northern portion of the project site. Any development proposed on the vacant portion of the project site would require environmental review and a discretionary action by the City. As a result, the majority of the project site would remain underutilized and provide no benefit to the City or its residents.

[64] CEQA Guidelines Section 15126.6(f)(2)(A)

Conclusion: Implementation of the "No Project" alternative would avoid the significant unavoidable impacts due to greenhouse gas emissions and emissions during construction identified in this EIR. The No Project alternative would not, however, allow for new residential serving retail to be constructed on-site. This alternative does not meet any of the objectives of the proposed project.

B. REDUCED DENSITY ALTERNATIVE

The project site is currently designated *General Commercial, Combined Industrial/Commercial,* and *Heavy Industrial* and is developed with three industrial/commercial buildings. In an effort to avoid the significant impacts due to greenhouse gas emissions that would result from the proposed project but still provide a new retail center, this alternative proposes a smaller, reduced density development.

Under the reduced density alternative, the project would still propose a General Plan amendment to *Combined Industrial/Commercial* and PD rezoning. The project would still be developed as a low-rise commercial/retail center and would still include the sustainable building designs listed in the project description. This alternative would, however, only propose 210,630 square feet of commercial/retail space, a reduction of approximately 46,666 square feet compared to the proposed project. The reduced density alternative would also demolish all three buildings on the project site. Site access would be the same as the proposed project with five driveways on Monterey Road, including a new signalized intersection at Cottage Grove Avenue, and one driveway on E. Alma Avenue. The proposed site plan for the reduced density alternative is shown on Figure 11.

The reduced density alternative would provide a total of 1,108 parking spaces on-site. The parking required for the site would be 796 spaces based on the City's zoning ordinance requirements (Chapter 20.90, Table 20-190, Neighborhood Shopping Center over 100,000 square feet) of one space per 225 square feet of floor area[65]. As a result, the reduced density alternative would exceed the City's parking requirement by over 300 spaces.

While vehicular air pollutant emissions are reduced proportionately with reductions in project size and vehicle trip generation, the reduction in square footage would not be sufficient to reduce the identified significant unavoidable greenhouse gas emissions impacts to a less than significant level. The BAAQMD Criteria Pollutant Screening Table indicates that commercial development less than 19,000 square feet would not have a greenhouse gas emissions impact. Based on this threshold, the proposed project would need to be reduced by approximately 238,296 square feet or nearly 93 percent to reduce greenhouse gas emissions to a less than significant level. Such a reduction would be impractical and an inefficient use of the property.

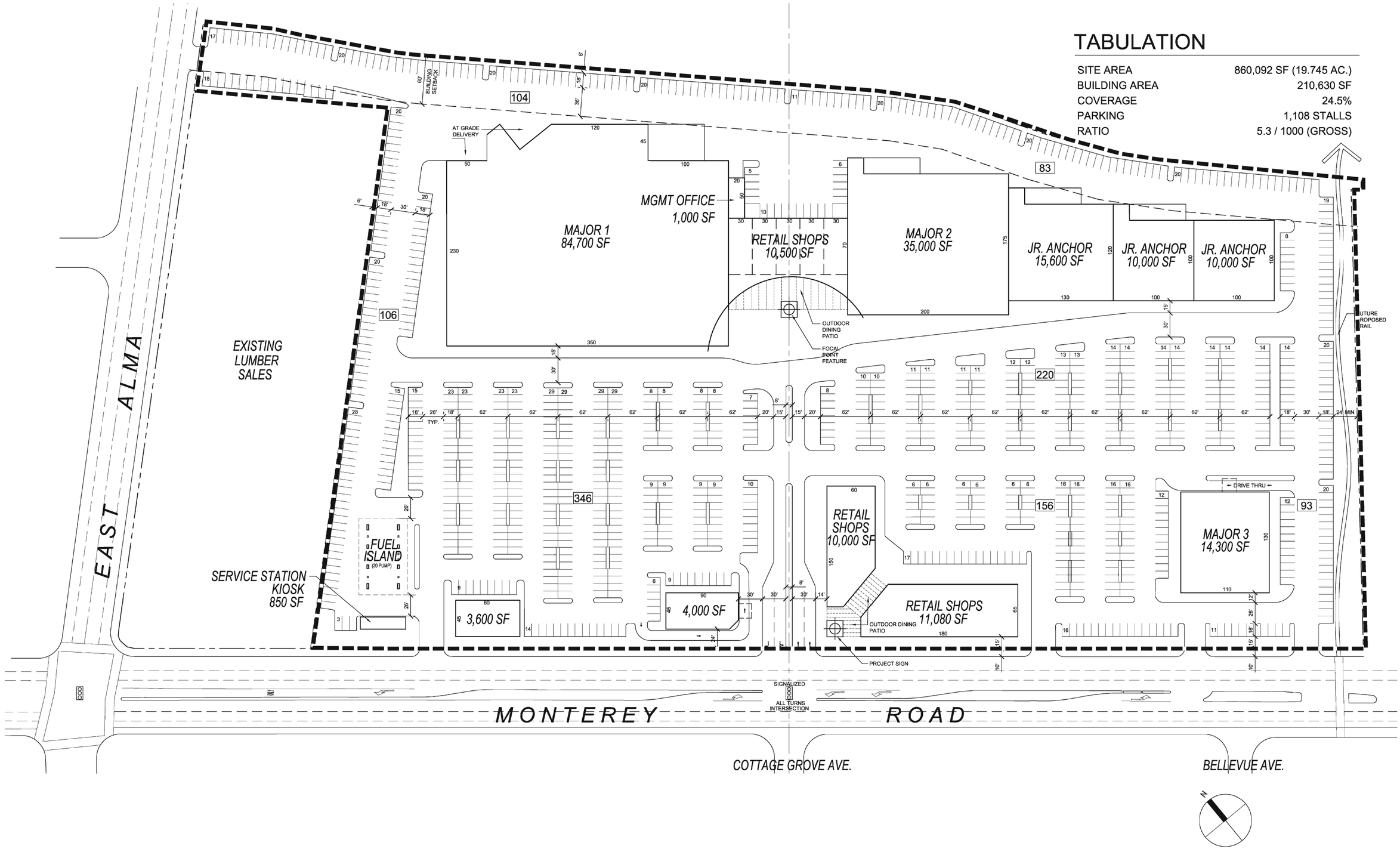
All other identified impacts including vegetation & wildlife, cultural resources, hazards & hazardous materials, hydrology & water quality, noise, and air quality would be the same or incrementally less than the impacts of the proposed project. Mitigation already identified in this EIR would reduce these impacts under this alternative to a less than significant level.

The reduced density alternative would meet nearly all of the objectives of the proposed project.

[65] Chapter 20.90 of the City's zoning ordinance defines floor area as 85 percent of the total gross floor area. Therefore, the parking requirement is based on a total floor area of 179,036 square feet.

TABULATION

SITE AREA	860,092 SF (19.745 AC.)
BUILDING AREA	210,630 SF
COVERAGE	24.5%
PARKING	1,108 STALLS
RATIO	5.3 / 1000 (GROSS)



CONCEPTUAL ALTERNATIVE SITE PLAN

FIGURE 11

Conclusion: Implementation of the Reduced Density Alternative would lessen the identified greenhouse gas emissions impacts but not to a less than significant level.

C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the Reduced Density Alternative because the project's significant environmental impacts would be incrementally less than with the proposed project. The Reduced Density Alternative would meet nearly all of the objectives of the proposed project.

SECTION 8.0 SIGNIFICANT UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. The following project specific significant unavoidable impacts have been identified:

- Implementation of the proposed project would result in a significant increase in greenhouse gas emissions in excess of adopted thresholds.

All other significant impacts of the proposed project would be reduced to a less than significant level with the implementation of the mitigation measures identified in this EIR

SECTION 9.0 IRREVERSIBLE ENVIRONMENTAL CHANGES AND IRRETRIEVABLE COMMITMENT OF RESOURCES

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed project, should it be implemented." [§15126(c)]

If the proposed project is implemented, development of this site would involve the use of non-renewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Once the new developments are complete, occupants will use non-renewable fuels to heat and light the buildings. The proposed project will also consume water at a higher rate than the current land use.

The City of San José encourages the use of building materials that include recycled materials, and makes information available on those building materials to developers. New buildings will be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed retail development will include green building design features and would, as a result, use less energy for heat and light and less water than a standard design retail complex. In addition, the site is an infill location and is currently served by public transportation. The site provides an expansion of job opportunities that are more proximate to existing housing in San José. The proposed project will, therefore, facilitate a more efficient use of resources over the long term than Greenfield sites or sites that are not within close proximity to existing housing areas.

SECTION 10.0 GROWTH INDUCING IMPACTS OF THE PROJECT

For the purposes of this project, a growth inducing impact is considered significant if the project would:

- cumulatively exceed official regional or local population projections;
- directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans;
- indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project is proposed on an infill site in the City of San José that is partially developed. The site was fully developed until 2002 when the buildings on the northern half of the site were demolished. The site is surrounded by existing infrastructure and both existing and planned development. Development of the project will not require upgrades to the existing water, sanitary sewer, and/or storm drain lines that directly serve the project site. Therefore, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area but not in other areas of the City.

Redevelopment of the project site would place a retail center in the middle of a commercial/residential area. The proposed project would be compatible with the surrounding land uses and would not pressure adjacent properties to redevelop with new or different land uses. The project would have a beneficial impact on the jobs/housing imbalance by adding more jobs to the City. Fewer workers would need to commute to other areas of the County for jobs. No new housing would be needed to support the new job growth. Therefore, the project would not indirectly induce new residential development.

The project would not have a significant growth inducing impact.

SECTION 11.0 LEAD AGENCY AND CONSULTANTS

Lead Agency

City of San José Department of Planning, Building and Code Inspection
Joseph Horwedel – Director of Planning
Mike Enderby – Senior Planner
Jodie Clark – Planner II
Janis Moore – Planner II

Consultants

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
San José, CA
Judy Shanley, Principal
Shannon George, Project Manager
Tanya Cottle, Research Assistant
Stephanie Francis, Graphic Artist

Concentric Ecologies
Arborist
San José, CA

Cornerstone Earth Group
Hazardous Materials Consultants
Sunnyvale, CA

Hexagon Transportation Consultants
Transportation Consultants
San José, CA

Illingworth & Rodkin
Air Quality/Global Climate Change Consultants
Petaluma, CA

Kier and Wright
Civil Engineers
Santa Clara, CA

SECTION 12.0 REFERENCES AND PERSONS CONSULTED

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