Initial Study/Addendum

BROKAW AND OLD OAKLAND ROAD REDEVELOPMENT

(General Plan Amendment and
Planned Development Zoning)

File Nos. GP10-04- 01 & PDC07-010

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

October 2010

TABLE OF CONTENTS

Page

Initial Study Text

TABLE OF CONTENTS

Page

Figures

Tables

Photographs

Appendices

SECTION 1.0 OVERVIEW

1.1 INTRODUCTION AND PURPOSE

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

This Initial Study evaluates the potential environmental impacts which might reasonably be anticipated to result from the proposed General Plan Amendment (GP10-04-01) and redevelopment of the site with up to 300,000 square feet of office/R&D uses or up to 150,000 square feet of retail commercial uses, and up to 650 residential units, or a combination of these uses. The City of San José is the Lead Agency under CEQA and has prepared this Initial Study to address the impacts of implementing the proposed project.

As described in detail in Section 3.3 of this document, the project proposes both a General Plan Amendment (GPA) and a Planned Development (PD) zoning on the site. Because the types of land uses proposed are similar to the types of uses allowed under the existing General Plan designation on the site, this Initial Study focuses on the project specific impacts of the development that would be allowed under the proposed PD zoning. However, it is conceivable that the proposed GPA could be approved on the site, and then the PD zoning could be denied. For the most part, the environmental impacts likely to result under the proposed GPA are the same as those that could occur as a result of development under the PD zoning. For this reason, the discussions of impacts in the following sections are combined for most of the topic areas. Therefore, wherever the environmental impacts of future buildout under the proposed GPA could differ from those resulting from the proposed PD zoning, those differences are highlighted in the following sections.

1.2 TIERING OF THE ENVIRONMENTAL REVIEW

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

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

In accordance with CEQA Sections 21093(a) and 21093(b) and CEQA Guidelines Section 15152(a), this Initial Study tiers off: 1) the City of San José Final Program EIR for the North San José Development Policies Update (State Clearinghouse #2004102067) certified by the City Council in June 2005 (hereinafter referenced as the NSJ FPEIR); and 2) the Fox Property General Plan Amendment Environmental Impact Report (State Clearinghouse #2006072020) certified by the City Council in December 2006 (File No. GP06-04-02).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Brokaw and Old Oakland Road Redevelopment

2.2 LEAD AGENCY CONTACT

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200 East Santa Clara Street, 3rd Floor
San José, California 95113-1905
(408) 535-7845

2.3 PROPERTY OWNER/PROPONENT

2.3.1 Property Owner

Fox Properties/Markovits & Fox, Inc.
14125 Capri Drive, #4
Los Gatos, CA 95032

2.3.2 Development Consultant

The Morley Bros.
Sean Morley
506 N. Santa Cruz Avenue
Los Gatos, CA 95030

2.4 ASSESSOR'S PARCEL NUMBERS

237-03-061, 237-03-069, and 237-03-070

2.5 ZONING DISTRICT AND GENERAL PLAN DESIGNATIONS

General Plan Land Use Designation: *Neighborhood/Community Commercial* and *High Density Residential (25-50 DU/AC)*

Zoning Designation: *HI – Heavy Industrial* and *IP – Industrial Park*

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROJECT LOCATION

The 29.9-acre project site is located at 1040, 1060, and 1080 East Brokaw Road and 1633 Oakland Road in the City of San José. The project site is comprised of three parcels [Assessor's Parcel Numbers (APNs): 237-03-061,-069, and -070] located on the southwest corner of East Brokaw Road and Oakland Road. The project site is bounded by East Brokaw Road to the north, Oakland Road to the east, Coyote Creek to the south, and the Union Pacific Railroad (UPRR) tracks to the west (refer to Figures 3.0-1 to 3.0-3).

The project site is located in the *North San José Development Policy Area* and within the *Rincon de Los Esteros Redevelopment Area*. The 29.9-acre site is currently designated as *Neighborhood/ Community Commercial, High Density Residential (25-50 DU/AC),* and *Private Open Space* on the City of San José's adopted General Plan Land Use/Transportation Diagram and zoned *HI – Heavy Industrial* and *IP – Industrial Park*.

Regional and vicinity maps of the project site are shown on Figure 3.1-1 and 3.1-2, respectively. An aerial photograph showing the surrounding land uses and roadways is provided on Figure 3.1-3.

3.2 PROJECT SITE HISTORY

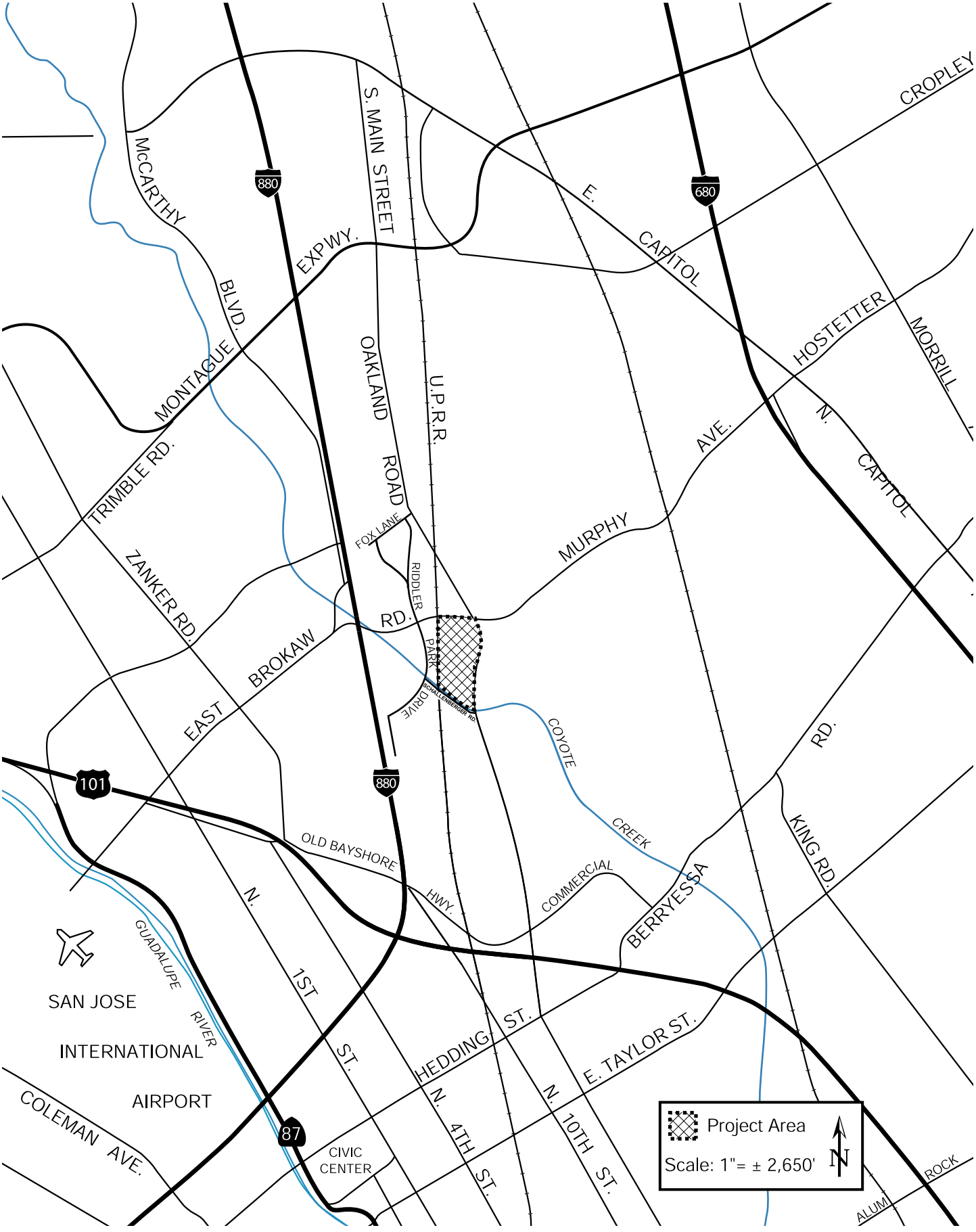
The northern portion of the site was previously developed with three office/research and development (R&D) buildings totaling approximately 182,000 square feet. One of these buildings, a 53,000 square foot office/R&D building at 1040 East Brokaw Road, was demolished in the spring of 2008 as part of ongoing hazardous materials remediation work on the site. The two remaining buildings on the site were constructed in 1998. The southern portion of the site is primarily vacant land that was previously used as a metals recycling facility. This portion of the site is currently undergoing remediation work to address hazardous materials contamination.

The project site is located in the *North San José Development Policy Area* and within the *Rincon de Los Esteros Redevelopment Area*. These areas were established to maximize economic development potential and promote industrial growth, as well as to address the resulting regional traffic congestion, and to encourage residential uses and retail services in close proximity to employment centers. In 2005, the City of San José approved an update to the North San José Area Development Policy (hereinafter referred to as NSJADP), which was intended to establish a policy framework to guide the ongoing development within the North San José area. The updated Policy allows for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, one million square feet of new regional commercial, 1,000 new hotel rooms, and 32,000 new dwelling units in the Rincon area.

A General Plan amendment (GPA) was approved for the site in December 2006 (File No. GP06-04-02), which changed the General Plan Land Use/Transportation Diagram designation on 27.4 acres from *Heavy Industrial (HI)* and *Industrial Park (IP)* to *Neighborhood/Community Commercial* and *High Density Residential (25-50 DU/AC).* The remaining 2.5 acres of the site were designated *Private Open Space* and were left unchanged by the GPA. The *Neighborhood/Community Commercial* designation allows for shopping centers of a neighborhood or community scale. The *High Density Residential (25-50 DU/AC)* allows for development of three- to four-story apartments or condominiums over parking.

REGIONAL MAP

FIGURE 3.1-1



VICINITY MAP

FIGURE 3.1-2

AERIAL PHOTOGRAPH

FIGURE 3.1-3

3.3 DESCRIPTION OF THE PROPOSED PROJECT

3.3.1 Proposed General Plan Amendment

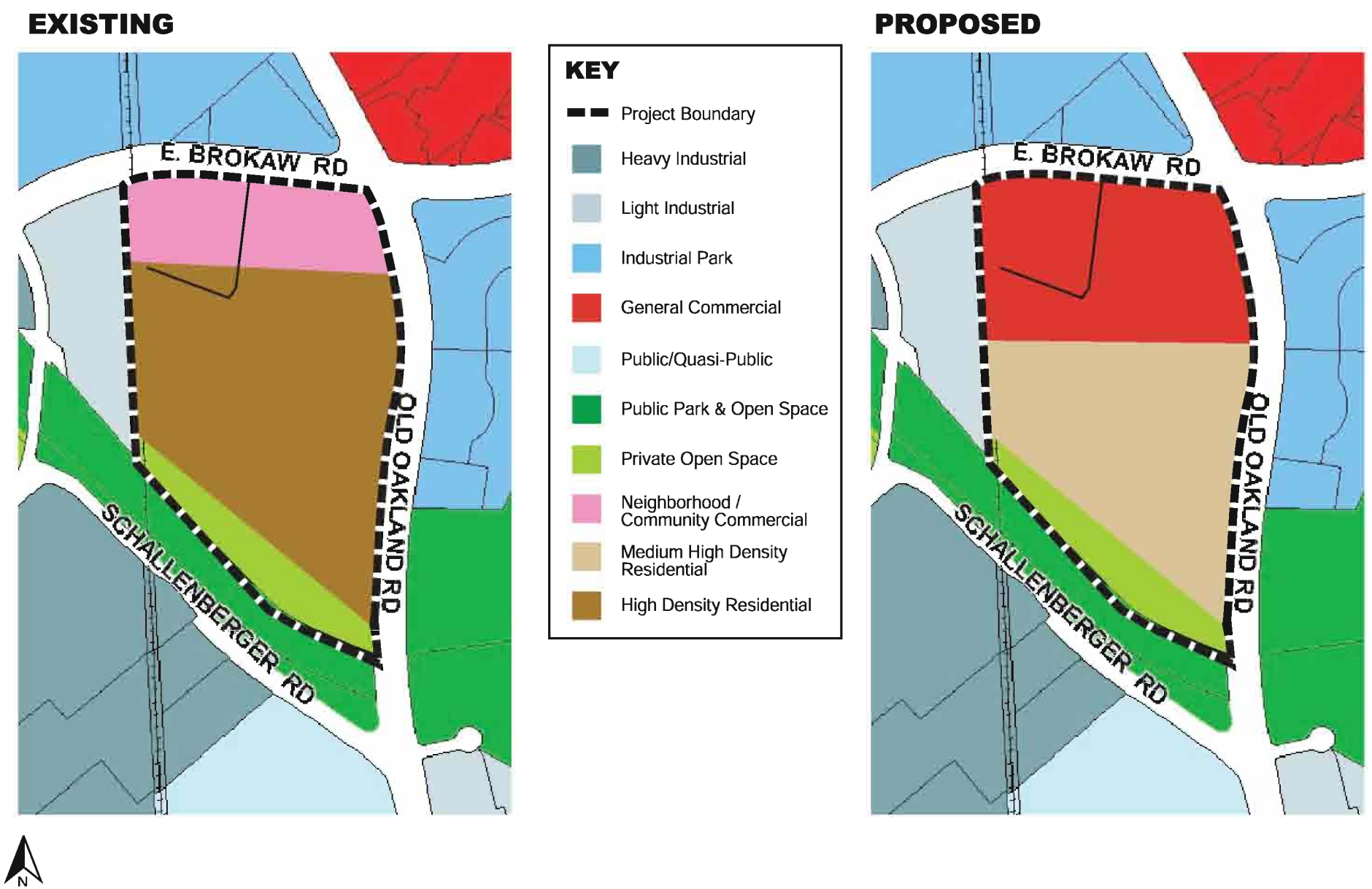
The project proposes a General Plan Amendment (GPA) to change the land use designations on 27.4 acres of the site from *Neighborhood/Community Commercial* and *High Density Residential (25-50 DU/AC)* to *General Commercial* on approximately 13.7 acres of the northern portion of the site, and *Medium-High Density Residential (12-25 DU/AC)* on approximately 13.7 acres of the southern portion of the site (refer to Figure 3.3-1). The proposed GPA is intended to allow general commercial uses including retail, office, administrative, research and development and the potential for vertical mixed-use development, including residential, on the northern portion of the site. Residential development will be allowed in the *General Commercial* portion of the site through application of the Discretionary Alternate Use Policy for Residential Uses. The density requirement under this policy is 17 DU/AC to 65 DU/AC, and this density requirement will be applied to the actual residential development areas and not to the entire commercial acreage. The proposed GPA on the southern portion of the site would allow a range of residential development types including multi-story apartments and condominiums, attached and stacked townhomes and single-family detached and attached residences. The proposed GPA would allow residential densities from 12 to 25 dwelling units per acre; however, the project proposes a minimum average density for the Residential Area of 20 dwelling units per acre (*refer to Section 3.3.2 Planned Development Zoning*) consistent with the *Medium-High Density Residential (12-25 DU/AC)* land use designation. The 2.5-acre area at the south end of the project site adjacent to Coyote Creek would maintain the *Private Open Space* land use designation.

3.3.2 Planned Development Zoning

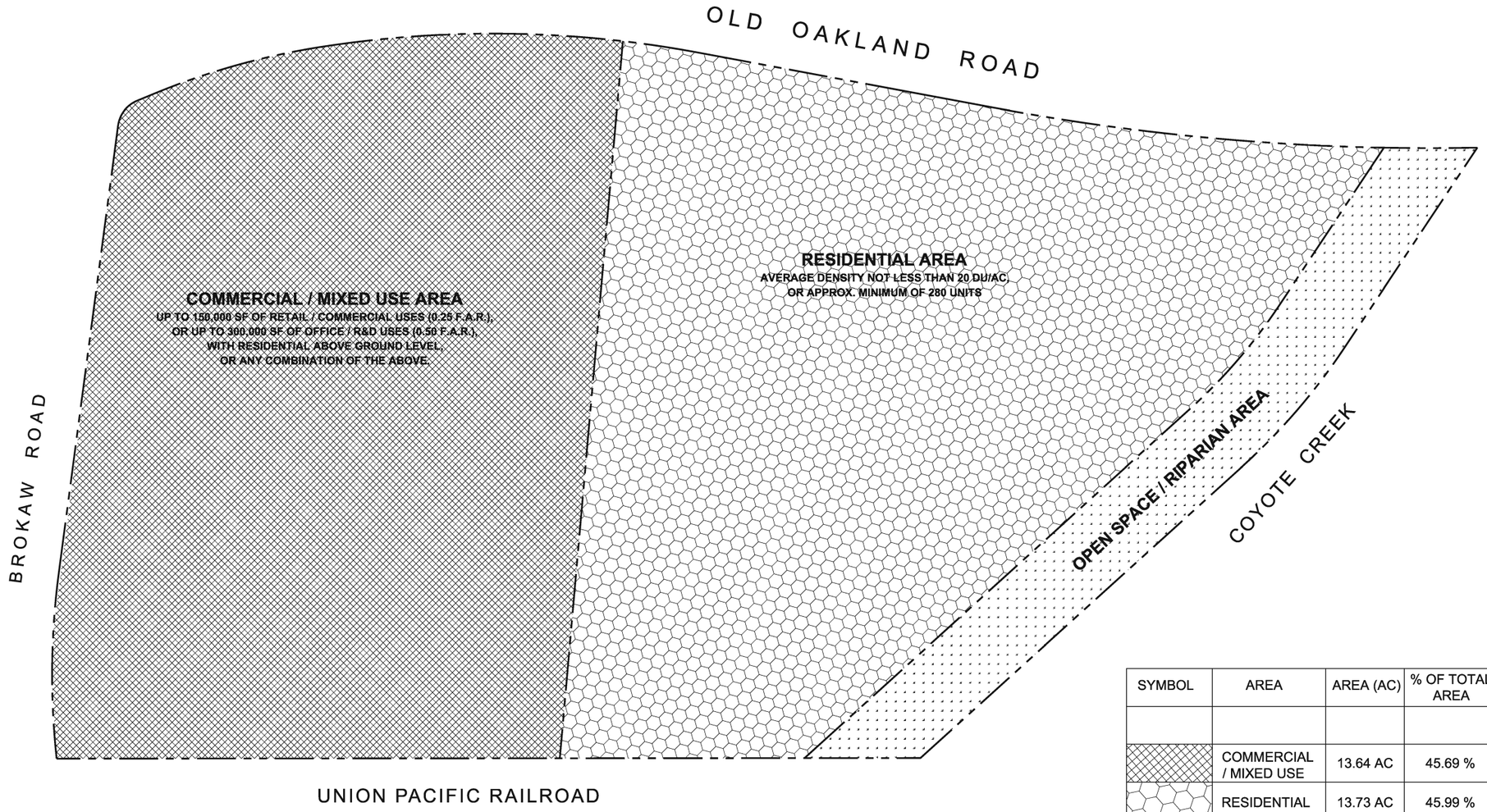
The project proposes a Planned Development (PD) zoning to allow a mix of commercial, office/R&D, residential, and park/open space uses. General commercial uses would be located on 13.7 acres in the northern portion of the site, residential uses would be located on 13.7 acres in the southern portion of the site, and 2.5 acres of open space would be located adjacent to Coyote Creek (refer to Figure 3.3-2). The proposed PD zoning would allow development of up to 150,000 square feet (FAR[1] of 0.25) of retail center/general commercial uses or up to 300,000 square feet (FAR of 0.50) of office/R&D development in the Commercial/Mixed-Use Area of the site, and up to 650 residential units across the entire site. The Residential Area of the site would be developed with a minimum of 274 residential units (20 DU/AC) and up to a maximum of 342 residential units. The Open Space/Riparian Area which provides an approximately 100-foot setback from Coyote Creek may include a 25-foot right-of-way (ROW) or approximately 0.6 acres for trail purposes at the Planned Development Permit stage.

While the specific retail uses have not yet been identified for the potential retail buildings in the Commercial/Mixed-Use Area of the site, they will be limited to the permitted uses in the "CG" Commercial Zoning District of Title 20 and the Office, Research & Development use and conditional uses as allowed by approval of a Planned Development (PD) permit. All permitted uses in the R-1, R-2, and R-M Residential Zoning District of Title 20 and conditional uses as allowed by approval of a Planned Development (PD) Permit could be developed in the Residential Area of the site. The proposed land use plan is shown on Figure 3.3-2.

[1] The Floor Area Ratio of a building is equivalent to the gross square footage of the building divided by the total area of the site.



EXISTING AND PROPOSED GENERAL PLAN LAND USE DESIGNATIONS FIGURE 3.3-1



SYMBOL	AREA	AREA (AC)	% OF TOTAL AREA	PRIMARY LAND USES					
				RETAIL (SF)	F.A.R.	OFFICE (SF)	F.A.R.	RESIDENTIAL (DU)	DU / AC
	COMMERCIAL / MIXED USE	13.64 AC	45.69 %	150,000 SF	0.25	300,000 SF	0.50	(2)	(2)
	RESIDENTIAL	13.73 AC	45.99 %	-		-		280-349 (2)	20-25
	OPEN SPACE	2.48 AC	8.32 %	-		-			
	TOTAL	29.85 AC	100 %	150,000 SF		300,000 SF		650 UNITS MAXIMUM	

NOTES: (1) SEE EXHIBIT C, GENERAL DEVELOPMENT PLAN, DEVELOPMENT STANDARDS FOR ALL PERMITTED LAND USES, ADDITIONAL INFORMATION AND SPECIFIC MINIMUM AND MAXIMUM UNIT AND SQUARE FOOTAGE REQUIREMENTS.

(2) COMMERCIAL / MIXED USE AREA MAY HAVE ADDITIONAL RESIDENTIAL UNITS, BUT MAY NOT EXCEED THE UNIT TOTAL OF 650 UNITS MAXIMUM FOR THE ENTIRE PROJECT.

N

Source: Kenneth Rodrigues & Partners, Inc., 7/7/2010.

Scale: 1" = ± 160'

LAND USE PLAN

FIGURE 3.3-2

3.3.2.1 *Street Network*

The project site would be served by a network of private streets. Public improvements may include a fully signalized intersection on Oakland Road which, if required, would be located at the approximate point of intersection separating the Commercial/Mixed Use Area and Residential Area in order to support retail uses. The exact location of the private street and full signalization intersection alignment would be determined at the PD Permit stage. Existing points of entry to the property may be re-aligned or changed at the Planned Development permit stage to facilitate proposed development within such permit, but would not be removed or changed until parcels they serve are redeveloped.

3.3.3.2 *Development Standards*

Commercial/Mixed Use Area

Buildings in the Commercial/Mixed Use Area of the site would be set back a minimum of ten feet and parking would be set back five feet from adjacent land uses. The maximum building height would be 50 feet in up to three-stories. Parking for commercial uses would be supplied in accordance with the requirements of the City's zoning ordinance.

Residential Area

Buildings in the Residential Area of the site would be set back from the commercial uses to the north and railroad uses to the west by a minimum of ten feet. Residential buildings would be set back a minimum of 15 feet from Oakland Road and would be built up to the Open Space/Riparian Area. The maximum building height for condominium buildings would be 50 feet in three-stories and maximum building height for buildings with podium structures would be 75 feet in up to five stories over the podium. Parking would be provided as shown in Table 3.3-1.

Table 3.3-1
Proposed Residential Parking

Unit Type	Parking Spaces Provided
Studio	1.4
1 Bedroom	1.5
2 Bedroom	1.8
3 Bedroom	2.0
4 Bedroom	2.15

3.3.3.3 *Grading and Drainage*

Project construction would include site clearing and grading activities to provide level building pads and parking surfaces. Grading would also include minor contouring of the site to provide positive drainage. Surface runoff from the northern portion of the site currently occupied by office buildings would drain to vegetated swales. The residential areas of the site, improved site access areas of the riparian setback, and commercial portion of the site subject to use restrictions would be treated by a mechanical treatment device and/or bioretention system. The proposed open space/riparian setback area, outside of any improvements allowed for site access, would be "self-treating."

3.3.3.4 *Utilities and Infrastructure*

Utilities and services, such as water, sanitary sewer, electricity, telephone, and natural gas service will be provided from existing lines in the project site area. The project will require extension of these lines onto the project site; however, the project will not require the construction of extensive new infrastructure to serve the project (refer to *Section 4.17 Utilities and Service Systems*).

3.3.3.5 *Landscaping*

The proposed project would include approximately 11.6 acres of landscaping on the site within the parking areas, along the proposed commercial buildings, and within the residential areas. The project would plant trees, shrubs and plants on the site which conform to the City of San José standards.

3.3.6.1 *Green Building Design Features and Measures*

In conformance with the City of San José's Private Sector Green Building Ordinance (Policy 6-32), proposed development on the project site will meet or exceed the applicable Build It Green (BIG) or LEED standards for commercial and residential development. Future development at the site will include various combinations of design measures and features to reduce natural resource and energy usage during construction and operation of the project. The measures and features used on the site to meet the City's Green Building Ordinance may include, but would not be limited to, the following:

- Vegetated swales to treat storm water prior to it being discharged from the site.
- Erosion and sedimentation controls will be used during the construction phase.
- Bicycle racks may be provided on-site to encourage and facilitate sustainable transportation practices.
- Shading of exterior paved surfaces with the use of trellises and dense tree planting.
- Cut-off light fixtures to preserve access to the night sky, reduce glare to neighbors, and reduce light (energy) waste.
- Automatic shut-offs of non-essential common areas and parking lighting.
- Low-flow toilets and fixtures may be used to improve water efficiency.
- Landscaping with indigenous or adapted plant species in order to reduce the need for water, fertilizer and pesticides.
- Recycled content construction materials such as steel, aluminum storefronts, and fiberglass insulation.
- Landscaping plants and concrete aggregate obtained from regional sources within 500 miles of the project site.
- Low-volatile organic compound paints and coatings.
- Recycling of metals, concrete, asphalt, paper, cardboard, plastics and clean wood to reduce construction waste.
- Recycling bins will be provided in the trash enclosures for commercial and residential use.

SECTION 4.0 ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Initial Study tiers off the City of San José North San José Development Policies Update Final Program EIR (2005 NSJ FPEIR), approved June 2005 and the Fox Property General Plan Amendment (GP06-04-02) approved in December 2006. The 2005 NSJ FPEIR evaluated the impacts of developing up to 32,000 new dwelling units and 1.7 million square feet of commercial space within the boundaries of the North San José planning area at a program level.

The 2005 NSJ FPEIR envisioned future buildout of the site with industrial park uses, and the Fox Property GPA FEIR envisioned development of six acres of neighborhood-serving commercial uses and 21.4 acres of high-density residential development. The Fox Property GPA FEIR also analyzed an Alternative similar to the proposed GPA that would have designated the site for 13.7 acres of *General Commercial* use and 13.7 acres of *High-Density Residential* use. This Initial Study, therefore, evaluates the project-specific environmental impacts of developing a greater amount and mix of retail uses and a greater variety of residential uses in more detail (project-specific vs. program-level) than has previously been completed for the site.

This section describes the existing environmental conditions on and near the project area, as well as the environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented. The right-hand column in the checklist lists the source(s) for the answer to each question.

In addition, each impact is numbered using an alpha-numerical system that identifies the environmental issue. For example, **Impact HAZ – 1** denotes the first impact in the hazards and hazardous materials section. Mitigation measures and conclusions are also numbered to correspond to the impacts they address. For example, **MM NV – 2.3** refers to the third mitigation measure for the second impact in the noise and vibration section. The letter codes used to identify environmental issues are shown in Table 4.0-1 on the following page.

Table 4.0-1
Letter Codes of Environmental Issues

Letter Code	Environmental Issue
AES	Aesthetics
AFR	Agricultural and Forest Resources
AIR	Air Quality
BIO	Biological Resources
CUL	Cultural Resources
GEO	Geology and Soils
GHG	Greenhouse Gas Emissions
HAZ	Hazards and Hazardous Materials
HYD	Hydrology and Water Quality
LU	Land Use
MIN	Mineral Resources
NV	Noise and Vibration
POP	Population and Housing
PS	Public Service
REC	Recreation
TRAN	Transportation
UTIL	Utilities and Service Systems

As described in Section 3.3 of this document, the project proposes both a General Plan Amendment (GPA) and a Planned Development (PD) zoning on the site. Because the types of land uses proposed are similar to the types of uses allowed under the existing General Plan designation on the site, this Initial Study focuses on the project specific impacts of the development that would be allowed under the proposed PD zoning. However, it is conceivable that the proposed GPA could be approved on the site, and then the PD zoning could be denied. For the most part, the environmental impacts likely to result under the proposed GPA are the same as those that could occur as a result of development under the PD zoning. For this reason, the discussions of impacts in the following sections are combined for most of the topic areas. Therefore, wherever the environmental impacts of future buildout under the proposed GPA could differ from those resulting from the proposed PD zoning, those differences are highlighted in the following sections.

4.1 AESTHETICS

4.1.1 Existing Setting

4.1.1.1 *General Plan Policies*

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

- Urban Design Policy #1: Apply Strong Architectural & Site Design Controls on Development.
- Urban Design Policy #2: Private Development should include Adequate Landscaped Areas.
- Urban Design Policy #7: Designs should consider Security, Aesthetics and Public Safety.

In addition to the policies of the San José General Plan, future development allowed by the proposed land use designation would be required to comply with the following City policies and guidelines:

- *Outdoor Lighting Policy* (City Council Policy 4-3, as revised 6/20/00)
- *Residential Design Guidelines*

4.1.1.2 *Project Site*

The 29.9-acre project site is located at the southwest quadrant of the Oakland Road and Brokaw Road intersection in North San José. In proximity to the Oakland Road/Brokaw Road intersection are high-density residential, office/R&D, and commercial land uses (refer to Photo 1). The project site is relatively flat and as a result, is only visible from the immediate area. There are 284 trees on the site, including mature trees along the East Brokaw Road and Oakland Road project frontage (see *Section 4.4 Biological Resources*).

The northern portion of the site is currently developed with two office/R&D buildings totaling 129,000 square feet. The buildings were built in 1998, are two-stories in height and typical of an office industrial-park development. The buildings are set back from the adjacent roadways and surrounded by surface parking lots and landscaping (refer to Photo 2).

The southern portion of the site is a relatively flat vacant lot with an irregular surface due to ongoing hazardous materials remediation (refer to Photo 3). A large soil stockpile for temporary storage of excavated soils is located in the northeastern corner of this portion of the site (refer to Photo 4). The lot is surrounded by cyclone fencing which makes it inaccessible to the public. The southern portion of the site is primarily visible from Oakland Road (refer to Photo 5).

4.1.1.3 *Surrounding Area*

The project site is located in an area primarily utilized for office/R&D, industrial, and commercial uses with residential uses further east and north of the site. The site is bound by East Brokaw Road (a six lane arterial roadway) to the north, Oakland Road (a six lane arterial roadway) to the east, Coyote Creek to the south, and the Union Pacific Railroad (UPRR) tracks to the west. Two-story office/R&D buildings are located on the north side of East Brokaw Road (refer to Photo 6).

Commercial buildings and the Coyote Creek Municipal Golf Course are located east of Oakland Road (refer to Photos 7 and 8). South of Coyote Creek is Schallenberger Road, south of which are industrial buildings and one single-family residence. West of the UPRR tracks are multi-story office/R&D buildings (refer to Photo 9).

Sidewalks are present along the Brokaw Road site frontage, and along the Oakland Road site frontage along the northern portion of the site. There is no sidewalk along the Oakland Road site frontage along the southern portion of the site; however, bike lanes are present along both site frontages.

4.1.1.3 *Scenic Vistas*

The project site is not located within a scenic viewshed or along a scenic highway. There are no scenic views visible from the project site.

4.1.2 Environmental Checklist and Discussion of Impacts

AESTHETICS	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐	1,2,3
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐	1,2,3
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐	1,2,3
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐	1,2,3
5) Increase the amount of shading on private or public open space (e.g., backyards, parks, plazas, and/or school yards)?	☐	☐	☐	☒	☐	1

4.1.2.1 *Change in Visual Character*

The previously certified 2005 NSJ FPEIR discussed the visual impacts associated with the development of high-density residential uses in North San José because such development would result in a greater mass, density, and height of structures than the general existing industrial park uses of the area.

Photo 1 - View of commercial and residential development located at the northeast corner of the Oakland Road/East Brokaw Road intersection, looking northeast from the northern project boundary.

Photo 2 - View of the northern portion of the project site, looking southeast from East Brokaw Road.

PHOTOS 1 AND 2

Photo 3 - View of the southern portion of the project site, looking northwest from Oakland Road.

Photo 4 - View of the on-site soil stockpile, looking east from the western boundary of the project site.

PHOTOS 3 AND 4

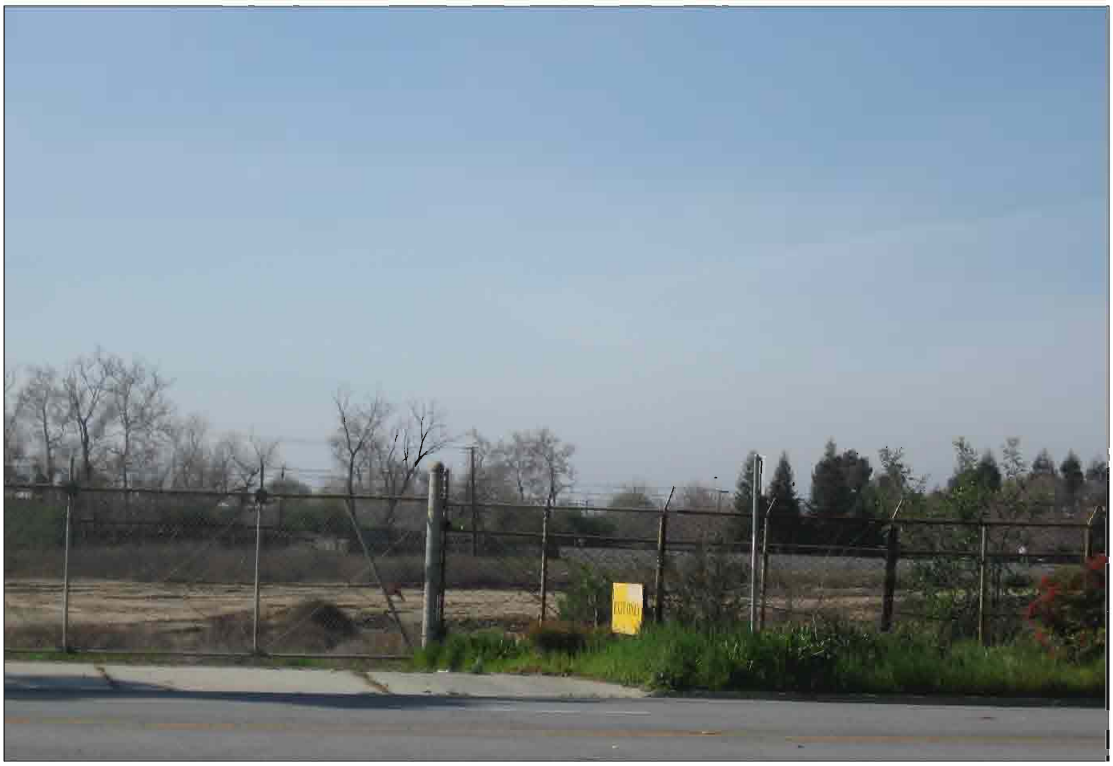


Photo 5 - View of the eastern project site boundary, looking west from the east side of Oakland Road.

Photo 6 - View of East Brokaw Road and a two-story office/R&D building, looking north from the northern project boundary on the south side of East Brokaw Road.

PHOTOS 5 AND 6

Photo 7 - View of commercial development across Oakland Road, looking southeast from the west side of Oakland Road.

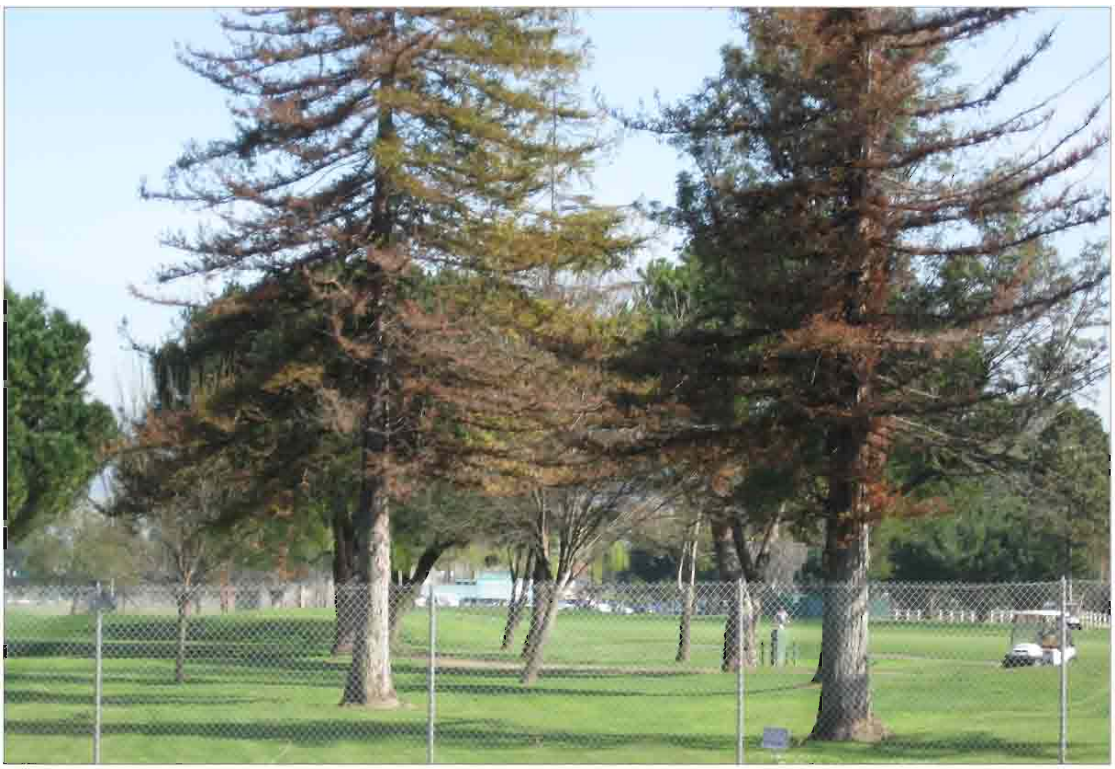


Photo 8 - View of the Coyote Creek Municipal Golf Course, looking east from the eastern project boundary on the west side of Oakland Road.

PHOTOS 7 AND 8

Photo 9 - View of the Coyote Creek riparian zone and the southern boundary of the project site, looking west from Oakland Road.

Photo 10 - View of the UPPR tracks and a multi-story office/R&D building, looking west from the western project boundary.

PHOTOS 9 AND 10

The proposed project would allow for the replacement of the existing office/R&D buildings and vacant lot with a combination of up to 650 residential units across the entire site (and a minimum of 274 units in the southern portion of site), and a retail center (or other General Commercial uses) with up to 150,000 square feet, or up to 300,000 square feet of office/R&D development.

Under the proposed *PD-Planned Development* land use designation, structures in the northern Commercial/Mixed-Use Area would reach a maximum of 50 feet in height and could include a mix of residential, commercial, and office/R&D land uses. Structures in the southern Residential Area would reach a maximum of 75 feet in height and would consist of residential land uses. Future development on the site would be of a greater intensity than the existing office/R&D development and vacant lot, and could be more massive than the surrounding industrial park land uses.

The project would likely result in the removal of up to 284 trees including 84 mature landscape trees which would change the visual character of the site. The project will be required to provide replacement trees on the site in accordance with the City's Tree Ordinance (see Section *4.4 Biological Resources*), and/or comply with the City's tree mitigation fees to offset the visual change from the loss of trees on the site.

The project would include the extension of the sidewalk along Oakland Road to increase pedestrian access to the site, provide connections to bus stops, and generally encourage walking in the area.

It was concluded in the 2005 NSJ FPEIR that conformance of future development in the North San José area to landscaping, design, setbacks, height and light requirements as described in the City's adopted *Residential Design Guidelines* (which includes guidelines for mixed-use development) would avoid significant visual and aesthetic impacts. Consistency of the proposed architecture and project design with the *Residential Design Guidelines* (as applicable) would be determined during processing of the Planned Development Permit (PD Permit) subsequent to approval of the PD zoning. The proposed project, therefore, would not result in any new or more significant visual or aesthetic impacts than described in the certified 2005 NSJ FPEIR.

Standard Measure: The project shall implement the following standard measure:

SM AES-1: The project shall conform to the City's *Residential Design Guidelines.*

4.1.2.2 *Light and Glare Impacts*

As discussed in the certified 2005 NSJ FPEIR, because the proposed buildings would be taller and of greater density than the existing buildings on-site, light in the project area would increase.

It was concluded in the certified 2005 NSJ FPEIR that light and glare impacts, including light spillover onto adjacent properties would be avoided through compliance with the City's *Outdoor Lighting Policy* (4-3).

Standard Measure: The project shall implement the following standard measure:

SM AES-2: The project shall comply with the City's *Outdoor Lighting Policy* (Policy 4-3), which includes the use of low-pressure sodium outdoor security lighting on-site along walkways, entrance areas, common outdoor use areas, and parking areas.

4.1.2.3 *Impacts to Scenic Vistas*

The certified 2005 NSJ FPEIR concluded that development throughout the North San José project area would reduce the availability of views of the foothills. Such views are intermittent under existing circumstances, usually available on public streets and from taller buildings. The views of the foothills from existing buildings in the proposed project vicinity may be reduced as a result of multi-story buildings on the project site. The project site is not a designated viewshed and does not contain scenic resources. The proposed commercial, office and residential uses would not affect or block existing designated scenic resources. The proposed project will not result in any new or more significant impacts to scenic vistas than those described in the certified 2005 NSJ FPEIR.

4.1.2.4 *Shade and Shadow Impacts*

Shade and shadow impacts occur when a structure reduces access to natural sunlight. In an urban environment, virtually all land uses are subject to shading from adjacent properties to some extent. During the summer, shading may even be desirable. Shade and shadow impacts can occur when a building or other structure substantially reduces natural sunlight on private or public open spaces, measured midday on the first day of winter (December 21) and on the vernal and autumnal equinoxes (March/September 21).[2] Between the hours of 9:00 a.m. and 3:00 p.m. the angles of the shadows move from a northwesterly to a northeasterly direction throughout the course of the day. Maximum shading occurs on December 21, during the winter solstice when the sun is at the lowest angle above the horizon.

Public open space in the vicinity of the project site includes the San José Municipal Golf Course located east of the project site across Oakland Road, and the Coyote Creek and riparian zone located along the southern boundary of the project site. The project allows for a potential park located adjacent to the Open Space/Riparian Area on the site and Oakland Road. The Coyote Creek riparian zone and the potential park would not be affected by shadows at any time during the year because of their location along the southern boundary of the proposed development (the angles of the shadows move from a northwesterly to a northeasterly direction throughout the course of the day). The golf course would be temporarily shaded in the evenings on the days surrounding the winter solstice; however, the shadows would not affect the intended use of the golf course. The vernal and autumnal equinoxes (when shadows are shorter) would not impact any public open space.

There are no public open spaces adjacent to the project site that would be impacted by shadows generated from development of the proposed project. For this reason, the proposed project would not result in significant shade or shadow impacts.

4.1.3 **Conclusion**

The proposed project would conform to applicable General Plan policies, the *Residential Design Guidelines* and the *Outdoor Lighting Policy*, and would not result in any new or more significant visual and aesthetic impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

[2] On the first day of winter, the sun is lowest in the sky and shading is greatest. On both the vernal and autumnal equinoxes, the sun is at the same location, over the equator. This threshold evaluates shading from September 21 through March 21.

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Existing Setting

The southern and northwestern portions of the project site were occupied by pear orchards for an unknown period of time prior to 1957 and 1956, respectively. By 1965, the northwestern portion of the site was occupied by row crops. In 1963, the southern portion of the project site was developed with a metals recycling facility, and starting in 1971, the northwestern portion of the project site was used for storage of waste generated by the recycling facility. In 1984, the northwestern portion of the site was developed with an office/R&D building. The office/R&D building has since been demolished and activities in the southern portion of the site associated with the recycling facility have ceased. Both portions of the site are now undeveloped and undergoing hazardous materials remediation.

The northeastern portion of the project site was used for orchards prior to 1956 and then row crops from the 1970's until approximately 1980. After 1980, the northeastern portion of the site remained clear and vacant until approximately 1998 when the two existing office/R&D buildings were constructed.

According to the Santa Clara County Important Farmland (2008) map, the project site is designated as *Urban and Built-Up Land*. *Urban and Built-Up Land* is defined as land with a density of at least six units per 10-acre parcel. Common examples include land used for residential development, industrial and commercial purposes, institutional facilities, golf courses, cemeteries, landfills, airports, sewage treatment, and water control structures.[3]

While North San José was cultivated for over a hundred years for a variety of crops, including orchards, field crops, and greenhouse-grown flowers, very little agriculture remains. The site is not the subject of a Williamson Act contract. The site is located within an urban area of San José, and there is no property used for agricultural purposes on or adjacent to the project site.

4.2.2 Environmental Checklist and Discussion of Impacts

AGRICULTURAL AND FOREST RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)
Would the project: 1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐	3,4

[3] Natural Resources Agency. *Santa Clara County Important Farmland 2008.* Accessed at ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2008/scl08.pdf. February 2009.

AGRICULTURAL AND FOREST RESOURCES						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)
Would the project:						
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	3,4
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	☐	1,2,3
4) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1

4.2.2.1 *Agricultural and Forest Resources Impacts*

As discussed above, agricultural use of the site ceased with the former recycling facility and current office development. The site is now mostly vacant and is not the subject of a Williamson Act contract, nor is it designated as farmland or presently used for agricultural purposes. The project would not result in any new or more significant impacts to agricultural resources than those described in the certified 2005 NSJ FPEIR.

The 2005 NSJ FPEIR did not include analysis of impacts to forest resources. None of the properties adjacent to the project site or in the vicinity are used for forestry, and the proposed project would not impact forest resources.

4.2.3 **Conclusion**

The proposed project would not result in any new or more significant impacts to agricultural resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

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

4.3 AIR QUALITY

4.3.1 Existing Setting

4.3.1.1 *General Plan Policies*

In connection with the implementation of the Clean Air Plan (CAP), various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. All future development allowed by the proposed land use designation would be subject to the air quality policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Air Quality Policy #1: Establish Appropriate Land Uses & Regulations to Reduce Air Pollution.
- Transportation Policy #8: Design Streets and Roadways to Provide for Vehicular, Bicycle, and Pedestrian Safety.
- Transportation Policy #17: Encourage Pedestrian Travel.
- Transportation Policy #19: Encourage Walking, Bicycling, and Public Transportation.
- Transportation Policy #22: Pedestrian Pathways and Public Sidewalks Should Provide Connectivity Between Uses.
- Transportation Policy #23: Street & Sidewalk Designs should Promote Transit Access.
- Transportation Policy #28: Promote Implementation of Transportation Demand Management.
- Transportation Policy #51: Develop a Safe & Direct Bicycle Network.

In addition to the policies of the City's General Plan, all future development allowed by the proposed land use designations would be subject to the City's Grading Ordinance, which mandates that all earth moving activities shall include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

4.3.1.2 *Background Information*

Ambient air quality has basically remained unchanged since the approval of the 2005 NSJ FPEIR. The Bay Area Air Quality Management District (BAAQMD) has made two regulatory changes since the 2005 NSJ FPEIR was certified. Revised *BAAQMD CEQA Guidelines* were adopted in June 2010 that provide new and updated CEQA thresholds for analyzing air quality impacts. In general, the new *BAAQMD CEQA Guidelines* have lowered the emissions thresholds for identifying project impacts. The *2010 Clean Air Plan* (2010 CAP) was adopted in September 2010. The Bay Area 2010 CAP provides an updated comprehensive plan to improve Bay Area air quality and protect public health, taking into account future growth projections to 2035. The population projections used in the 2010 CAP were based on the Association of Bay Area Governments (ABAG) *2007 Projections*. ABAG's *Projections 2007* forecasts San José's population to be 1,422,800 residents in 2035.

The Bay Area 2010 CAP is based upon *Projections 2007*, prepared by the Association of Bay Area Governments (ABAG), which was based upon the City's General Plan which reflects the approval of the 2005 NSJ FPEIR and the 2006 Fox Property GPA FEIR. The growth assumed in the 2005 NSJ FPEIR and the 2006 Fox Property GPA FEIR, therefore, was included in ABAG's *Projections 2007*. Development of high density residential land uses close to job centers and along transit lines is specifically consistent with the Bay Area 2010 Clean Air Plan. The project would not cause the rate

of increase in vehicle miles traveled (VMT) to be greater than the rate of increase in population. The project would also be consistent with applicable 2010 CAP control measures as shown in Table 4.3-1 below. For these reasons, the development of high density residential uses on the project site would be consistent with the *2010 Clean Air Plan.*

Table 4.3-1
Bay Area 2010 Clean Air Plan Control Measures

Measure	Description
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling and transit use.
Goods Movement	This measure will reduce diesel PM and GHG emissions from goods movement in the Bay Area through targeted enforcement of CARB diesel ATCMs in impacted communities, partnerships with ports and other stakeholders, increased signage indicating truck routes and anti-idling rules, shifts in freight transport mode, shore-side power for ships, and improvements in the efficiency of engine drive trains, distribution systems (roadways, logistic systems) and land use patterns.
Land Use Guidelines	This measure will provide guidance to local governments regarding 1) air quality and greenhouse gases in General Plans, and 2) how to address and mitigate population exposure related to land use development.
Energy Efficiency	Provide 1) education to increase energy efficiency; 2) technical assistance to local governments to adopt and enforce energy efficient building codes; and 3) incentives for improving energy efficiency at schools.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.
Tree Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.

4.3.1.3 *Sensitive Receptors*

Clean air is a natural resource of vital importance. Pollutants in the air can cause health problems, especially for children, the elderly, and people with heart or lung problems. Healthy adults may experience symptoms during periods of intense exercise. Pollutants can also cause damage to vegetation, animals, and property.

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, schools, playgrounds, child-care centers, retirement homes, convalescent homes, hospitals and medicinal clinics. Existing sensitive receptors near the project site include a single-family residence to the south, across Coyote Creek on Schallenberger Road, an apartment complex to the north, and single-family residential to the east (refer to Figure 3.0-3).

4.3.3 Environmental Checklist and Discussion of Impacts

AIR QUALITY	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐	1,3,5
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒	☐	1,3,5
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☐	☒	☐	1,3,5
4) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐	1,3,5
5) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	☐	1

4.3.3.1 *Regional and Local Air Quality Impacts*

The development of the proposed project would contribute to the significant regional and local air quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant regional or local air quality impacts than were described in the certified 2005 NSJ FPEIR. The 2005 NSJ FPEIR identified a number of mitigation measures that were to be incorporated into new development in North San José, where feasible. The mitigation measures would reduce air quality impacts, but not to a less than significant level.

Impact AQ-1: The proposed project would contribute to regional and local air quality impacts. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR and proposed by the project:

MM AQ-1.1: The project proposes to implement measures identified by BAAQMD to reduce emissions, which are proposed to include, but are not limited to, the following:

- Provide secure and conveniently placed bicycle parking;

- Allow only natural gas fireplaces, pellet stoves, or EPA-certified wood-burning fireplaces or stoves in residences. Conventional open-hearth fireplaces should not be permitted. EPA-certified fireplaces and fireplace inserts are 75 percent effective in reducing emissions from this source;
- Provide direct, safe, attractive pedestrian access from project site to transit stops and adjacent developments;
- Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand; and
- Provide transit passes to new residents.

4.3.2.2 *Construction-Related Air Quality Impacts*

Construction activities would temporarily affect local air quality. Construction activities such as demolition, earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water-based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases for a short time after its application.

Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying materials are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of PM_{10} downwind of construction activity.

The development of the proposed project would contribute to the significant construction-related, short-term air quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project would not, however, result in any new or more significant construction-related air quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact AQ-2: The project would result in short-term, construction-related air quality impacts. **(Significant Impact)**

Mitigation Measure: The following mitigation measures are identified in the certified 2005 NSJ FPEIR and proposed by the project:

MM AQ-2.1: The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a less than significant level. The following construction practices will be implemented during construction on the project site:

- Water all active construction areas at least twice daily;
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind;

- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites;
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binder to all exposed stockpiles (dirt, sand, etc.);
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

4.3.3 Conclusion

Impact AQ-1: With the implementation of mitigation (MM AQ-1.1), the project would not result in any new or more significant regional and local air quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact AQ-2: With the implementation of mitigation (MM AQ-2.1), the project would not result in any new or more significant construction-related air quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.4 BIOLOGICAL RESOURCES

The following discussion is based upon a Biological Evaluation prepared by *Live Oak Associates, Inc.* in July 2010 and a Tree Survey completed for the project site by *HortScience* in January 2010. Copies of these reports are included as Appendices A and B, respectively, of this Addendum/Initial Study.

4.4.1 Introduction and Regulatory Framework

4.4.1.1 *Special-Status Species*

Threatened and Endangered Species

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

Permits may be required from both the CDFG and USFWS if activities associated with a proposed project will result in the take of a listed species. To "take" a listed species, as defined by the state of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species (California Fish and Game Code, Section 86). "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species (16 USC, Section 1532(19), 50 CFR, Section 17.3).

Migratory Birds

State and federal laws also protect most bird species. The Federal Migratory Bird Treaty Act (FMBTA: 16 U.S.C., scc. 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of Prey

Birds of prey, such as owls and hawks, are protected in California under provisions of the State Fish and Game Code, Section 3503.5, (1992), which states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by the CDFG.

4.4.1.2 *Jurisdictional Waters*

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank that, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and

wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), CDFG, and the California Regional Water Quality Control Board (RWQCB).

Activities that would disturb the bed and bank of natural drainages are regulated by the CDFG via a Streambed Alternation Agreement. Such an agreement typically stipulates the certain measures which must be implemented to protect the habitat values of the drainage in question.

4.4.1.3 *City of San José*

General Plan

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

- Riparian Corridors and Upland Wetlands Policy #2: Develop Consistent with Riparian Corridor Policy Study.
- Riparian Corridors and Upland Wetlands Policy #3: Setback Development from Riparian Habitat.
- Riparian Corridors and Upland Wetlands Policy #4: Protect Riparian Corridor from Lighting, Exotic Landscaping, Noise, and Toxic Substances.
- Riparian Corridors and Upland Wetlands Policy #5: Development Shall Restore or Compensate for Damage to Creeks and Riparian Corridors.
- Riparian Corridors and Upland Wetlands Policy #6: Encourage Native Plant Restoration Along Riparian Corridors, Wetlands, and Adjacent Upland Areas.
- Urban Forest Policy #2: Preserve Ordinance-Sized and Significant Trees/Mitigate for Tree Loss.
- Urban Forest Policy #3: Maintain and Preserve Mature Trees.
- Urban Forest Policy #4: Require Planting and Maintenance of Street Trees as Development Condition.
- Urban Forest Policy #5: Replacement Tree Selection and Placement.
- Urban Forest Policy #6: New Trees Should Have Low Water Requirements.
- Urban Forest Policy #7: Incorporation of Trees Benefitting Urban Wildlife.

Riparian Corridor Policy

The City of San José has a riparian corridor policy that addresses several issues relating to the identification, management, and protection of riparian resources within the City's Urban Service Area (USA). Riparian corridors are defined as any defined stream channels including the area up to the bank full-flow line, as well as all riparian (streamside) vegetation in contiguous adjacent uplands. Characteristic wood riparian vegetation species could include (but are not limited to): willow, alder, box elder, Fremont cottonwood, bigleaf maple, western sycamore, and oaks. The City's Riparian Corridor Policy Study design guidelines state all buildings, other structures (with the exception of bridges and minor interpretative node structures), impervious surfaces, outdoor activity areas (except for passive or intermittent activities) and ornamental landscaped areas should be separated a minimum of 100 feet from the edge of the riparian corridor (or top of bank, whichever is greater) (City of San Jose 1999, 31).

City of San José Tree Ordinance

The *City of San José Tree Ordinance* defines an "ordinance-size" tree as any woody, perennial plant characterized by having a main stem or trunk which measures 18-inches or greater in diameter at a height of 24-inches above natural grade slope. A multi-stem tree is considered a single tree and measurement of that tree includes the sum of the diameter of the tree trunks of that tree. A tree removal permit is required from the City for the removal of ordinance-size trees.

City of San José Heritage Trees

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

4.4.1.4 *Santa Clara Valley HCP/NCCP*

To date, there are no adopted habitat conservation plans that cover the project site. The City of San José and several partner agencies, including the County of Santa Clara, the Santa Clara Valley Water District, and the Santa Clara Valley Transportation Authority, are in the process of developing a multi-species Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) for the Santa Clara Valley. The HCP/NCCP has yet to be adopted and is currently non-operational. Approval of the HCP/NCCP is anticipated by the end of 2010. The only species potentially impacted by this project that will be covered by the HCP/NCCP is the western pond turtle. If this HCP were approved prior to site development, the project would be subject to the provisions addressed in this HCP.

4.4.2 Existing Setting

4.4.2.1 *Biotic Habitats*

The project site is mostly developed habitat characterized by a vacant lot, two office/R&D buildings and associated landscaping, and surface parking lots in the northern portion of the site. The southern portion of the property was a former metal recycling facility that is currently a vacant lot, devoid of any structures. Mature trees are concentrated along the perimeter of the site. The only naturally occurring biotic habitat associated with the project site is Coyote Creek which runs along the southern boundary of the property (refer to Figure 3.1-3). No Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or state HCP includes the project area.

Developed Areas

Landscaped vegetation within the office complex and along the eastern boundary of the former metals recycling facility consist of tree species such as coast redwood (*Sequoia sempervirens*), California sycamore (*Platanus racemosa*), pine (*Pinus* sp.), and California walnut (*Juglans californica*). Ornamental shrubs include Indian hawthorne (*Raphiolepis indica*), heavenly bamboo (*Nandina domestica*), oleander (*Nerium oleander*), redtipped photinia (*Photinia fraseri*), and crape myrtle (*Lagerstroemia indica*). English ivy (*Hedera helix*) was used as a ground cover in many areas and a dense lawn was planted in portions of the complex.

Vegetation within the former metals recycling facility portion of the site is sparse to non-existent. There were a few herbaceous species and stunted trees and shrubs observed growing through cracks in the pavement. Non-native forbs species observed within the facility include Russian thistle (*Salsola tragus*), common mallow (*Malva neglecta*), white-stemmed filaree (*Erodium moschatum*), and cudweed (*Gnaphalium* sp.). Tree and shrub species observed include willow (*Salix* sp.), Mexican elderberry (*Sambucus mexicana*), fan palm (*Washingtonia filifera*), and coyote bush (*Baccharis pilularis*).

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

Avian species expected to utilize the on-site trees and shrubs for perching, with the larger trees providing marginal nesting habitat, include the American crow (*Corvus brachyrhynchos*), western scrub jay (*Aphelocoma californica*), northern mockingbird (*Mimus polyglottos*), rock dove (*Columba livia*), Anna's hummingbird (*Calypte anna*), house finch (*Carpodacus mexicanus*), bush petronia (*Petronia dentata*), starling (*Sturnus vulgaris*), flicker (*Colaptes auratus*), Junco (*Junco* sp.), and house sparrow (*Passer domesticus*). There is also the slight chance that common raptors, such as the red-tailed hawk (*Buteo jamaicensis*), could nest in the on-site trees.

There are a few mammalian species that wander onto the site occasionally due to the close proximity to residential development, or when foraging for food (i.e. food left in dumpsters). These species include eastern fox squirrels (*Sciurus nigra*), domestic cat (*Felis catus*), domestic dog (*Canis familiaris*), raccoon (*Procyon lotor*), and Virginia opossum (*Didelphis virginiana*).

Coyote Creek

A reach of Coyote Creek runs along the southern boundary of the site. The actual channel is not located on the site but the upper banks are near the southern boundary of the site. Coyote Creek is a perennial stream that begins in the Mount Hamilton Range in southeastern Santa Clara County and empties into the San Francisco Bay approximately ten miles northwest of the project site.

An abandoned outfall exists that previously emptied runoff water from the site into Coyote Creek approximately 250 feet from the western property line. A permit was issued in 1962 for the construction of a 24-inch outfall with a 3-foot wide shaped earth ditch, and a sacked concrete headwall. The construction was in accordance with the Santa Clara Valley Water District (SCVWD) standards of the time, but the addition of a poured concrete spillway was constructed without a permit from the SCVWD and is not in accordance with the SCVWD's current standards.[4]

The reach of Coyote Creek along the project boundary is highly disturbed with existing development starting at the top of bank. This area of the creek is currently being utilized as a homeless encampment with various associated tent enclosures. Regardless of the disturbed nature of the creek, riparian vegetation is present along the banks and a number of species utilize the channel for breeding and movement.

Vegetation within the creek corridor consisted of an overstory of tree and shrub species with an herbaceous and vine layer growing under the canopies. Riparian tree and shrub species observed

[4] Wolfe, Stan N. Principal Engineer, Santa Clara Valley Water District. Letter to Marvin Fox, CEO Markovitz and Fox. March 18, 1992.

within the riparian overstory include coast live oaks (*Quercus agrifolia*), Fremont cottonwood (*Populus fremontii*), blue gum eucalyptus (*Eucalyptus globulus*), Peruvian peppertree (*Schinus molle*), Mexican elderberries (*Sambucus mexicana*), willows (*Salix* sp.), California buckeyes (*Aesculus californica*), and elms (*Ulmus* sp.).

The understory had been trampled in many locations, but appeared to be dominated by common non-native grass and forbs species. The grass and forbs species included black mustard (*Brassica nigra*), Johnson's grass (*Sorghum halepense*), periwinkle (*Vinca minor*), curly dock (*Rumex crispus*), poison hemlock (*Tsuga* sp.), cape ivy (*Delairea odorata*), and bedstraw (*Galium* sp.). Some geranium (*Geranium dissectum*), milk vetch (*Astragalus* sp.), drug fumitory (*Fumeria officinalis*), woodsorrel (*Oxalis* sp.), and bull thistle (*Cirsium vulgare*) were also observed in this area. Both Himalayan blackberry (*Rubus discolor*) and California blackberry (*Rubus ursinus*), as well as poison oak (*Toxicodendron diversiloba*), were growing in the understory. There were also scattered stands of giant reed (*Arundo donax*) growing along the channel banks.

The structural diversity of the riparian habitat provides suitable habitat for a number of wildlife species. Amphibians and reptiles that may inhabit the area include the ensatina (*Ensatina eschscholtzi*), arboreal salamander (*Aneides lugubris*), California slender salamander (*Batrachoseps attenuatus*), Pacific chorus frog (*Pseudacris regilla*), western fence lizard (*Sceloporus occidentalis*), southern alligator lizard (*Gerrhonotus multicarinatus*), and western toad (*Bufo boreas*).

Avian species observed foraging along the banks of the creek or perching in the trees include a Nuttall's woodpecker (*Picoides nuttallii*), northern flicker (*Colaptes auratus*), and mourning doves (*Zenaida macroura*). Other resident species likely to utilize this reach of Coyote Creek include the black phoebe (*Sayornis nigricans*) and spotted towhee (*Pipilo aculates*), along with the species occurring within the developed habitat of the site. The riparian trees provide suitable nesting habitat for a number of avian species, particularly raptors. Evidence of raptors breeding in the riparian trees was observed in a Fremont cottonwood (an abandoned stick nest remained from the previous year's breeding season) during a site survey in 2006; however, no raptors or evidence of raptors were seen during the February 2010 field survey.

Mammalian species are expected to reside within and move through the corridor of Coyote Creek. A tree squirrel nest was observed in the riparian tree canopy. In addition to the species that may occur in the developed habitat, other mammalian species expected to occur along Coyote Creek include the Botta's pocket gopher (*Thomomys bottae*), California mouse (*Peromyscus californicus*), striped skunk (*Mephitis mephitis*), and brush rabbit (*Sylvilagus bachmani*).

4.4.2.2 *Wildlife Movement Corridors*

Many terrestrial animals need more than one biotic habitat in order to perform all of their biological activities. With increasing encroachment of humans on wildlife habitats, it has become important to establish and maintain linkages, or movement corridors, for animals to be able to access locations containing different biotic resources that are essential to maintaining their life cycles. Terrestrial animals use ridges, canyons, riparian areas, and open spaces to travel between their required habitats.

The importance of an area as a movement corridor depends on the species in question and its consistent use patterns. While no detailed study of animal movements has been conducted for the study area, knowledge of the site, its habitats, and the ecology of the species potentially occurring on-site permits sufficient predictions about the types of movements occurring in the region and whether or not proposed development would substantially hinder animal movements.

Coyote Creek, which borders the site to the south, serves as a movement corridor for local wildlife species that inhabit nearby lands. However, the creek is expected to facilitate regional movements of only some wildlife species, as animals would have to travel through miles of poor habitat (i.e., urban development) before reaching the site and surrounding areas, which are themselves of low habitat value. Some wildlife species adapted to urban areas may use the site itself as part of their home range and dispersal movements. The movements of these species; however, do not indicate that the site functions as a significant movement corridor. Reptiles, birds, and mammals would move through all portions of the site, as they would also do on the surrounding developed lands.

4.4.2.3 *Special-Status Plant and Animal Species*

Special-Status Plant Species

There are 31 special status plant species that are known to occur in the vicinity of the project site. All of these are considered to be absent from the site. The majority of the special status plant species from this area occur on serpentine soils, which do not occur in the vicinity of the site. Due to both the lack of appropriate habitat and the highly disturbed condition of the site, no special-status plant species are expected to occur on-site.

Special-Status Animal Species

There are 18 special status animal species that occur, or once occurred, in the region. With the exception of steelhead, western pond turtle, white-tailed kite, loggerhead shrike, California yellow warbler and ringtail, all of these species would be absent from or unlikely to occur on or adjacent to the project site due to unsuitable habitat conditions (i.e., the developed nature of the vast majority of the site). Eventual project build-out would have no effect on 12 of these species because there is little or no likelihood that they are present.

4.4.2.4 *Jurisdictional Waters*

As mentioned previously, the project site is mostly vacant, with two office/R&D buildings and associated landscaping and surface parking lots in the northern portion of the site. No jurisdictional waters or wetlands are present on the site. The project site is located immediately adjacent to a reach of Coyote Creek, which is a known water of the United States. Coyote Creek is also subject to the jurisdiction of the CDFG and RWQCB.

4.4.2.5 *Trees*

A preliminary tree survey found a total of 284 trees on the project site, most of which are located along the perimeter of the site along East Brokaw Road and Oakland Road. The survey found the most common trees on the site to be coast redwood, shamel ash, London plane, and raywood ash. The site had one native tree (Fremont cottonwood) and 283 planted non-natives. The complete tree survey, including a tree location map, is included in Appendix B of this Initial Study/Addendum.

Table 4.4-1, on the following page, provides a summary of the tree species found on-site, their sizes, and their suitability for preservation as identified in the tree survey. The preliminary tree survey found 88 ordinance-size trees located on the project site including 27 shamel ash, 21 Italian stone pine, 20 Monterey pine, 12 coast redwood, four river red gum, one Fremont cottonwood, one Mexican fan palm, and one raywood ash. There are no heritage trees on the project site.

Table 4.4-1
Tree Survey Summary

Common Name	Scientific Name	Diameter in Inches			Total # of Trees	Suitability for Preservation*		
		1-11	12-17	18+		Poor	Fair	Good
Shamel Ash	*Fraxinus uhdei*	1	10	27	38	2	29	7
Italian Stone Pine	*Pinus pinea*	--	--	21	21	4	13	4
Monterey Pine	*Pinus radiata*	1	1	20	22	13	9	--
Coast Redwood	*Sequoia sempervirens*	27	48	12	87	7	43	37
River Red Gum	*Eucalyptus camaldulensis*	--	2	4	6	6	--	--
Fremont Cottonwood	*Populus fremontii*	--	--	1	1	--	1	--
Mexican Fan Palm	*Washintonia robusta*	--	--	1	1	--	--	1
Sweet Gum	*Liquidambar styraciflua*	3	11	--	14	3	7	4
London Plane	*Platanus acerifolia*	27	8		35	--	9	26
Raywood Ash	*Fraxinus oxycarpa*	26	4	1	31	--	9	22
Fern Pine	*Afrocarpus elongatus*	5	1	--	6	2	3	1
Bradford Pear	*Pyrus calleryana*	15	7	--	22	6	11	5
Total		**105**	**92**	**87**	**284**	**43**	**134**	**107**

Notes: * Suitability of trees for preservation is based upon the age, health and structural condition, and ability to safely coexist within a development environment.

4.4.3 Environmental Checklist and Discussion of Impacts

BIOLOGICAL RESOURCES	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project: 1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒	☐	1,3,7,8

BIOLOGICAL RESOURCES	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒	☐	1,3,7,8
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐	1,3,7,8
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐	1,3,7,8
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐	1,2,3, 6,7,8
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	☐	1,3,7

4.4.3.1 *Special-Status Species*

Steelhead

Steelhead are known to be present in Coyote Creek which is adjacent to the site (refer to *Section 4.4.2.3*). Erosion and sediment runoff from the outfall removal or reconstruction work within the Coyote Creek riparian corridor could have indirect adverse effects on steelhead.

Impact BIO-1: Outfall removal or reconstruction work may result in impacts to steelhead. **(Significant Impact)**

Mitigation Measures: The project will be required to implement the following mitigation measures during construction to reduce impacts to steelhead to a less than significant level:

MM BIO-1.1: No construction shall occur in Coyote Creek during the steelhead spawning season and rainy season (generally October 15 through June 14), when most runoff water would enter the channel.

MM BIO-1.2: A meeting discussing the identification of steelhead and the purpose of implementing precautionary measures to avoid impacts to steelhead is required with on-site workers prior to the start of construction.

MM BIO-1.3: No materials or equipment shall be staged within the Coyote Creek channel. All materials and equipment shall be staged at least ten feet from the top of the creek bank.

MM BIO-1.4: Open trenches or pipes at water level shall be covered or some escape method (e.g., escape board) placed within the trench or pipe at the end of each workday. Doing so would preclude steelhead from being trapped in the trench or pipe after working hours. The filling of any trenches shall be monitored by a qualified biologist.

MM BIO-1.5: Best management practices (BMPs) shall be implemented during construction to prevent any construction debris or sediment from entering the creek channel.

MM BIO-1.6: A biological monitor shall be present on-site during construction within potentially suitable habitat to ensure that no steelhead are harmed, injured, or killed during project buildout.

Western Pond Turtle

The Coyote Creek riparian corridor provides potentially suitable habitat for the western pond turtle. Removal or reconstruction of the outfall could result in the permanent loss of a small amount of basking and nesting habitat for the turtle and a temporary disturbance to the immediate vicinity of the outfall. The loss of habitat for this species would be considered a less-than-significant impact and would be offset by the riparian habitat mitigation discussed in *Section 4.4.3.3*. However, construction work may result in the actual death or injury of a western pond turtle.

Impact BIO-2: Outfall removal or reconstruction work may result in direct impacts to individual western pond turtles. **(Significant Impact)**

Mitigation Measures: The project will be required to implement the following mitigation measures during construction to reduce impacts to western pond turtle to a less than significant level:

MM BIO-2.1: A meeting discussing the purpose of implementing precautionary measures to avoid impacts to western pond turtles is required with on-site workers prior to the start of construction.

MM BIO-2.2: Pre-construction surveys shall be completed to ensure that western pond turtles are absent from the construction area supporting potentially suitable habitat prior to ground disturbance.

MM BIO-2.3: The construction zone shall be cleared, and silt fencing shall be erected and maintained around construction zones to prevent western pond turtles from moving into these areas.

MM BIO-2.4: A biological monitor shall be present on-site during construction within potentially suitable habitat to ensure that no western pond turtles are harmed, injured, or killed during project build out.

Nesting Raptors

Raptors (e.g., eagles, hawks, and owls) and their nests are protected under both federal and state laws and regulations including the Migratory Bird treaty Act and California Fish and Game Code section 3503.5. The white-tailed kite and other raptors may breed in the trees on or immediately adjacent to the site. Although no stick nests were observed on the site or within the riparian corridor of Coyote Creek during the February 2010 survey, large trees on the site provide potential nesting habitat for white-tailed kites and other tree-nesting raptors, and thickets along the creek provide potential nesting habitat for loggerhead shrikes and California yellow warblers as well. If any of these species were to nest on or adjacent to the site prior to construction, construction activities could result in the abandonment of active nests or direct mortality to these birds. Construction activities that adversely affect the nesting success of raptors, loggerhead shrikes, or California yellow warblers or result in mortality of individual birds constitute a violation of state and federal laws.

Impact BIO-3: White-tailed kites and other raptors may breed in the trees on the site or within the riparian corridor of Coyote Creek. Removal of trees or disturbance to riparian vegetation, associated with development of the site could result in nest abandonment. **(Significant Impact)**

Mitigation Measures: The project will be required to implement the following mitigation measures identified as part of the certified 2006 Fox Property GPA FEIR to reduce impacts to nesting raptors:

MM BIO-3.1: In conformance with federal and state regulations regarding protection of raptors, it is the City of San José's practice to require that appropriate preconstruction surveys for raptors be completed prior to any development on sites where it is reasonable to assume that such species may be located. The preconstruction surveys are used to verify the presence/absence of breeding raptors and the surveys must follow California Department of Fish and Game protocols.

Pre-construction surveys for nesting raptors shall be completed on the site prior to any disturbances that occur during the nesting season (February 1 through August 31) to ensure that raptors are not harmed, injured, or killed as a result of any future development project. These surveys would entail evaluation of all trees within approximately 250 feet of proposed ground disturbance. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated

buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

Ringtails

Ringtails potentially occur more frequently during the breeding season or may be resident to the site, although no evidence of their presence has been documented. Impacts to habitat for ringtails would not be considered significant, as project buildout would, at most, result in a minimal reduction of foraging and/or breeding habitat available regionally for this species, and there is suitable habitat in the project vicinity that would be available to this species both during and following project redevelopment.

Even though ringtails may occur within the woodland habitat along Coyote Creek, individuals of this species are reclusive, nocturnal mammals that reside in the high canopies of the riparian trees. If ringtails were present within the vicinity of proposed construction, it is assumed that individuals would flush from the area unharmed and would, therefore, not be impacted by the project.

4.4.3.2 *Movement Corridors*

Although Coyote Creek immediately borders the site to the south and facilitates the movement of wildlife through the region, the project site itself provides minimal dispersal habitat for native wildlife and does not function as a movement corridor for native wildlife because it is developed and is bordered on its remaining sides by development. Redevelopment of the site is not anticipated to significantly impact the home range and dispersal movements of native wildlife that may occur in the region. The project, therefore, will result in a less-than-significant impact on the movements of native wildlife.

4.4.3.3 *Jurisdictional Waters and Riparian Habitat*

Removal or reconstruction of the existing outfall would result in permanent and temporary disturbances to approximately 1,200 square feet of Coyote Creek, a known water of the U.S, and its associated riparian habitat. The placement of fill within jurisdictional waters and the loss of, or encroachment upon, riparian habitat would be a significant biological resources impact. The determination of whether the project will be required to remove or replace the existing outfall will be made at the PD Permit stage of the project when plans are finalized for the site.

The project also could include a pedestrian trail within a 25-foot right of way in the in the riparian corridor setback area. The City of San José's *Riparian Corridor Policy Study* calls for a 100-foot buffer area between development and the edge of the riparian corridor, but allows for pedestrian-only trails to be located along the edge of the riparian corridor. The proposed trail, therefore, would not result in a significant impact due to encroachment within the riparian corridor buffer area.

Impact BIO-4: Removal or reconstruction of the existing outfall within the northeast bank of Coyote Creek would result in impacts to riparian habitat on the channel bank and may impact jurisdictional waters of the Coyote Creek. **(Significant Impact)**

Mitigation Measures: The project will be required to implement the following mitigation measures consistent with the certified 2006 Fox Property GPA FEIR:

MM BIO-4.1: The following mitigation measures are designed to reduce project impacts to Coyote Creek and its associated riparian corridor to a less-than-significant level as a result of the outfall work:

- Because construction of the outfall cannot avoid Coyote Creek and its riparian corridor, actions shall be taken to minimize impacts to the riparian corridor during construction. Measures taken during construction activities shall include placing construction fencing around the riparian area(s) to be preserved to ensure that construction activities do not inadvertently impact these areas.

- All proposed lighting should be designed to avoid light and glare impacts to the riparian corridor. Light sources should not be visible from riparian areas and should not illuminate riparian areas or cause glare on the opposite side of Coyote Creek (e.g., to neighboring properties and Schallenberger Road).

- Compensatory mitigation will be required to offset temporary and permanent impacts to the riparian corridor of Coyote Creek as a result of removal or reconstruction of the outfall. These measures will include 1) the creation of new habitat, either on-site or offsite, as replacement for habitat lost; or 2) enhanced quality of existing riparian habitat for native plants and wildlife. This mitigation shall include a replacement-to-loss ratio of up to 3:1 for permanent acreage impacts (three acres created for each acre impacted) as well as reseeding of vegetation for temporarily impacted areas. This mitigation could include the enhancement of on-site riparian habitat for minimal impacts or the implementation of offsite efforts along a nearby tributary for larger impacts. The exact compensation measures needed may vary depending on the final project design.

- The applicant shall comply with all state and federal regulations related to removal or replacement of the outfall, which will impact Coyote Creek and its riparian corridor. This may require obtaining a Section 404 Clean Water Act permit from the USACE, Section 401 Water Quality Certification from the RWQCB, and Section 1602 Streambed Alteration Agreement from the CDFG prior to initiating any construction, if deemed necessary, and fulfilling the mitigation requirements of these permits.

4.4.3.4 *Trees*

As described in the setting section above, there are currently 284 trees on-site; of which 87 are ordinance-size trees (refer to Table 4.4-1). The project may preserve some of the mature, perimeter trees along Brokaw Road and Oakland Road to the extent feasible; however, it is likely that development of the project would require the removal of most or all of the trees on-site. Removal of up to 87 ordinance-size trees would be considered a significant impact.

Impact BIO-5: Development of the project site would result in the removal of up to 284 trees, including 87 ordinance-size trees. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation and avoidance measures:

MM BIO-5.1: All trees that are to be removed shall be replaced in accordance with the City of San José Tree Removal Controls (San José Municipal Code Title 13 Chapter 13.32) with the minimum ratios as shown in Table 4.4-2 below:

Table 4.4-2
Tree Mitigation Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio
Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

MM BIO-5.2: 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 will be implemented, to the satisfaction of the City's Director of Planning, Building, and Code Enforcement, at the Planned Development (PD) 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), will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of $300 per mitigation tree to *Our City Forest* or *San José Beautif*ul for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted tress for approximately three years. A donation receipt for off-site planting will be provided to the Planning Project Manager prior to issuance of a development permit.

MM BIO-5.3: The project shall implement the following measures to avoid impacts from construction activities to trees which are retained on and adjacent to the project site including trees along the southern boundary in the Coyote Creek riparian zone:

- The project proponent shall retain a consulting arborist prior to any ground disturbance activities. The consulting arborist shall develop a tree

protection plan outlining specific procedures to ensure that trees on and adjacent to the site are protected during the construction phase.

- For retained trees in the immediate vicinity of construction or demolition areas, problems of soil compaction within the root zone resulting from heavy construction equipment shall be prevented. In order to minimize construction and demolition impacts to trees, barrier fencing shall be installed around the dripline of all retained trees or at the edge of construction areas. Any construction or demolition activities taking place within the dripline of retained trees shall be done by hand or with light equipment that does not cause soil compaction. All fencing shall remain in place throughout the construction phase of the project. The type of fencing to be utilized shall be at the direction of the consulting arborist.

- Any limb root pruning to be conducted on retained trees shall be approved and supervised by the consulting arborist and shall follow best management practices developed by the International Society of Arboriculture.

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

- If any of the retained trees should be damaged during the construction phase, they shall be evaluated at the earliest possible time by the consulting arborist so that appropriate measures can be taken.

4.4.5 Conclusion

Impact BIO-1: Implementation of mitigation measures (MM BIO-1.1 to MM BIO-1.6) would mitigate the potential impacts to steelhead to a less than significant level. **(No New Impact)**

Impact BIO-2: Implementation of mitigation measures (MM BIO-2.1 to MM BIO-2.4) would mitigate potential impacts to western pond turtle to a less than significant level. **(No New Impact)**

Impact BIO-3: Implementation of mitigation measures (MM BIO-3.1) would mitigate the potential impacts to tree-nesting raptors to a less than significant level. **(No New Impact)**

Impact BIO-4: With implementation of mitigation measures (MM BIO-4.1) the potential impacts to the Coyote Creek riparian corridor from removal or reconstruction of the existing outfall would be reduced to a less than significant level. **(No New Impact)**

Impact BIO-5: Development of the project site with the implementation of mitigation measures (MM BIO-5.1 to MM BIO-5.3) would not result in any new or more significant impacts to trees than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.5 CULTURAL RESOURCES

An Extended Archaeological Survey was completed by *Holman & Associates, Inc.* in May 2010 for the project site. This report is on file with the City of San José Department of Planning, Building, and Code Enforcement.

4.5.1 Existing Setting

4.5.1.1 *General Plan Policies*

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

- Historic, Archaeological, and Cultural Resources Policy #9: Unexpected Native American Burials

4.5.1.2 *Prehistoric Archaeological Resources*

Archaeological Resources at the Project Site

Several archaeological investigations were completed for portions of the project site from 1978 to 1984 in relation to the operation of the metals recycling facility that operated on the property, and subsequent conversions of the northern portion of the property to office/R&D development. Additional archaeological studies were completed at the project site in 2000 and 2002. No archaeological materials were identified in any of the archaeological assessments, nor were archaeological materials discovered during construction of the previous projects at the project site.

The most recent archaeological study for the project site was completed in May 2010. The investigation involved excavation of nine exploratory trenches in the southern portion of the project site on the parcel adjacent to Coyote Creek (APN 237-03-070). One small water-tumbled stone flake was retrieved from a trench during the excavation; however, its significance could not be determined. No significant archaeological materials were observed in any of the nine trenches.

No prehistoric era sites or Native American prehistoric sites including villages, trails, traditional and/or contemporary use areas have been identified on the project site.

Archaeological Resources at Nearby Properties

The San José Municipal Golf Course is located east of the project side across Oakland Road. Hundreds of burials were reportedly recovered from the golf course during its construction in the late 1960's, and in 1978 a large deposit of shellfish, bird and mammal dietary remains, fire-affected rock and numerous artifacts (midden) were found inside the golf course grounds. The midden deposits indicate that the golf course area was once a site of primitive human settlement. An additional 15 burials and additional midden deposits were identified at the golf course in 1988. This site was formally recorded as SCL-343.

In 1984 a deposit of midden was discovered north and northeast of the golf course. Between 1986 and the early 1990's numerous additional archaeological deposits and human burials were recorded during construction of residential developments and infrastructure improvements north and northeast of the golf course to Murphy Road. The non-contiguous midden deposits and burials were collectively designated SCL-581.

4.5.1.3 *Historic Resources*

The existing industrial buildings on the project site were constructed in 1998. There are no historically significant structures located on-site.

4.5.2 Environmental Checklist and Discussion of Impacts

CULTURAL RESOURCES	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒	☐	1,2
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☐	☐	☒	☐	1,2,14
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	☐	1,2
4) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	☐	1,2

4.5.2.1 *Impacts to Prehistoric Resources*

Penitencia Creek drains into Coyote Creek approximately one mile southeast of the project site. Prehistoric settlement in the vicinity of the Penitencia Creek altered year to year based upon the changing course of the creek, which resulted in a complex pattern of non-contiguous habitation middens and burial sites over the large associated flooodplain. Human remains in the vicinity of the project site were retrieved from midden deposits and abandoned creek meanders of the Penitencia Creek. Based upon discoveries from the grounds of the San José Municipal Golf Course and extending to the north and northeast to Murphy Road, the archaeological sensitivity of the area is considered high.

The southern portion of the project site was thoroughly inspected for archaeological resources in May 2010, with no discoveries of cultural resources. The northern portion of the project site has been heavily disturbed by the original construction of three office/R&D buildings and a surface parking lot, and recovery of archaeological resources is unlikely. The northern portion of the project site, however, has never been thoroughly inspected for archaeological resources and future redevelopment of the northern portion of the project site could have adverse impacts on potentially significant archaeological resource deposits.

Impact CUL-1: Grading and excavation activities could impact buried archaeological resources in the northern portion of the project site. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures:

MM CUL-1.1: Any earth-disturbing activities in the northern portion of the project site near the existing office buildings, outside of the consolidation cells, will be monitored by a qualified professional archaeologist under an Archaeological Monitoring Agreement until the professional is satisfied that construction will not disturb important archaeological deposits. The Agreement shall include advanced notification of earth-moving in the recommended area to be monitored, monitoring of all earth-moving activities that would require a grading or demolition permit, authority of the archaeological monitor to halt and/or relocate construction activities if significant archaeological materials or human remains are uncovered, and time and funding for activities related to evaluation, collection, recordation, analysis and reporting of any discovered archaeological materials.

MM CUL-1.2: If any significant cultural materials[5] are exposed or discovered during site preparation or subsurface construction activities, operations shall stop within 50 feet of the find and a qualified professional archaeologist contacted for evaluation and further recommendations. The archaeologist's recommendations shall be presented to the Director of Planning, Building and Code Enforcement for consideration. Potential recommendations could include evaluation, collection, recordation, analysis, and reporting of any significant cultural materials.

MM CUL-1.3: Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American.

[5] Significant prehistoric cultural materials may include: human bone – either isolated or intact burials; habitation (occupation or ceremonial structures as interpreted from rock rings/features, distinct ground depressions, differences in compaction); artifacts including chipping stone objects such as projectile points and bifaces, groundstone artifacts such as manos, metates, mortars, pestles, grinding stones, pitted hammerstones, and shell and bone artifacts including ornaments and beads; various features and samples including hearths (fire-cracked rock, baked and vitrified clay), artifact caches, faunal and shellfish remains (which permit dietary reconstruction), distinctive changes in soil stratigraphy indicative of prehistoric activities; and isolated artifacts.

Significant historic cultural materials may include: finds from the late 19th through early 20th centuries. Objects and features associated with the Historic Period can include: structural remains or portions of foundations (bricks, cobbles/boulders, stacked field stone, postholes, etc.); trash pits, privies, wells, and associated artifacts; isolated artifacts or isolated clusters of manufactured artifacts (e.g., glass bottles, metal cans, manufactured wood items, etc); and human remains. In addition, cultural materials including both artifacts and structures that can be attributed to Hispanic, Asian, and other ethnic or racial groups are potentially significant. Such features or clusters of artifacts and samples include remains of structures, trash pits, and privies.

If the Coroner determines that the remains are not subject to his/her authority, the Native American Heritage Commission shall be notified to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location no subject to further subsurface disturbance.

MM CUL-1.4: If the Director of Planning Building and Code Enforcement finds that the archaeological discovery is not a significant resource, work would resume only after submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.

A final report would be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.

4.5.2.2 *Impacts to Historic Resources*

The existing buildings on-site, due to their date of construction and style, do not have historical significance at either the City, state, or national level. Demolition of the existing structures and development of the proposed project would have no impact on historic resources.

4.5.3 Conclusion

Impact CUL-1: The proposed project, with implementation of the above mitigation measures (MM CUL-1.1 to MM CUL-1.4) would not result in any new or more significant impacts to cultural resources than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.6 GEOLOGY AND SOILS

The following discussion is based in part on a Preliminary Geotechnical Investigation prepared by *Cornerstone Earth Group* in January 2010. This report is included as Appendix C of this Initial Study/Addendum.

4.6.1 Existing Setting

4.6.1.1 *General Plan Policies*

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

- Soils and Geologic Conditions Policy #1: Hazards Assessment for New Development.
- Soils and Geologic Conditions Policy #2: Avoid Public Improvements and Utilities in Areas with Geologic Hazards or Mitigate.
- Soils and Geologic Conditions Policy #6: Mitigate Soils and Geologic Hazards.
- Soils and Geologic Conditions Policy #8: No Endangerment by or Contribution to Geologic Hazards.
- Earthquake Policy #1: New Development Designed to Resist Earthquakes.
- Earthquake Policy #3: Develop only if Seismic Hazards are Mitigated.
- Earthquake Policy #5: Require Geotechnical Studies for New Development.

4.6.1.2 *Geological Features*

The project area is located in the Santa Clara Valley, between the base of the western foothills of the Hamilton-Diablo Mountain Range and the northeasterly foothills of the Santa Cruz Mountains, in the Coast Range Geomorphic Province of Central California. Bedrock underlying the area is part of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of the Upper Jurassic to Cretaceous age (70 to 140 million years old). These rocks are part of a northwesterly-trending belt of material that lies along the east side of the San Andreas Fault system, which is located approximately 13.5 miles southwest of the area. The Franciscan Complex is overlain by alluvium deposits of Holocene age (less than two million years old). This alluvium is comprised primarily of clay, silt, sand, and gravel. Below surface soils, older alluvial soils, extend to depths of greater than 500 feet in this area of San José.

4.6.1.3 *Soil Conditions*

The project site elevation ranges from 54 to 57 feet above mean sea level. The northern portion of the site is relatively level and is currently occupied by two multi-story office buildings and associated landscaping and surface parking lots. The southern portion of the site is vacant and has a slight downward gradient to the southwest toward the Coyote Creek. The Coyote Creek bank is located 30 to 50 feet south of the project site boundary.

Undocumented Fill

The ground surface is somewhat irregular due to ongoing surface excavations related to hazardous materials remediation. The project site has isolated areas of undocumented fill consisting of stiff to very stiff lean clay[6] which reach depths of one to two feet. Other documented and undocumented fill areas are located across the site at depths of up to 26 feet. A large soil stockpile is located to the northeast in the southern part of the project site.

Native Soils

Below existing surface fills, the site is blanketed with native stiff to very stiff lean clays which reach depths of 10 to 17 feet. These near-surface native clays are moderately compressible, and are interbedded with discontinuous layers (ranging from a few inches to a few feet) of clayey and silty sand and sandy silts at depths of 10 to 20 feet below grade.

Below the near-surface clays are of stiff to very stiff lean and fat clays[7] interbedded with layers of medium dense to very dense sands with varying amounts of clay and gravel to the maximum depth explored of 50 feet.

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

Groundwater

Studies conducted at the project site encountered perched[8] water within the layers of sand at depths of about 13 to 15 feet below grade. Fluctuations in groundwater are common due to seasonal fluctuation, underground drainage patterns, regional fluctuations, and other factors. Groundwater on the project site is, therefore, estimated to be encountered at nine to 12 feet below the existing grade (at an elevation of approximately 45 feet).

4.6.1.4 *Seismicity and Seismic Hazards*

The San Francisco Bay Area is one of the most seismically active regions in the United States. Many faults exist in the southern San Francisco Bay Area and some of them are capable of producing ground motions that would affect the site. The site is not located within a designated Alquist-Priolo Earthquake Fault Zone, a Santa Clara County Fault Hazard Zone, or in a City of San José Potential Hazard Zone, therefore, fault rupture on the project site is not a significant hazard. Strong seismic ground shaking is, however, expected at the site during moderate to severe earthquakes in the 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 trend in a northwesterly direction. The San Andreas Fault passes approximately 13.5 miles southwest of the site. The other two major active faults in the area are the Hayward Fault and Calaveras Fault, which are located approximately 6.5 and 7 miles northeast of the site, respectively.

[6] Lean clay has a relatively high content of silt or sand and low to medium plasticity.
[7] Fat clay is cohesive and compressible with a high proportion of minerals that make it greasy to the feel. Fat clay has high plasticity.
[8] Perched groundwater is groundwater that has been separated from an underlying body of groundwater by an unsaturated zone of soils with low permeability.

The U.S. Geological Survey's Working Group on California Earthquake Probabilities (2003) determined that there is a 62 percent chance of at least one magnitude 6.7 or greater earthquake striking the San Francisco Bay region between 2002 and 2031.[9]

Liquefaction

During cyclic ground shaking, such as during earthquakes, cyclically induced stresses may result in liquefaction. Soils most susceptible to liquefaction are loose to moderately-dense, saturated non-cohesive soils with poor drainage, such as sands and silts with interbedded or capping layers of relatively low permeability soil.

The site is located within a State of California Seismic Hazard Zone for liquefaction and a Santa Clara County Liquefaction Hazard Zone. As discussed above, the subsurface of the project site is predominantly clay soils with thin layers of sands and silts. Soils on the site are susceptible to liquefaction.

Lateral Spreading

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

4.6.2 Environmental Checklist and Discussion of Impacts

GEOLOGY AND SOILS	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☐	☒	☐	1,8
b) Strong seismic ground shaking?	☐	☐	☐	☒	☐	1,8
c) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐	1,8

[9] Working Group on California Earthquake Probabilities. *Earthquake Probabilities in the San Francisco Bay Region: 2002–2031*. Accessed on February 9, 2010 at: http://pubs.usgs.gov/of/2003/of03-214/WG02_OFR-03-214_ExecSummary.pdf.

GEOLOGY AND SOILS	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
d) Landslides?	☐	☐	☐	☒	☐	1,8
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐	1,8
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐	1,8
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒	☐	1,8
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐	1

4.6.2.1 *Soil Conditions*

As discussed above, the native soils on the project site are not expansive and, therefore, hazards from expansive soils would not present a threat to future development at the site.

Moderately compressible clays exist on the project site from depths of 10 to 17 feet below the existing site grades, and groundwater on the project site is encountered at nine to 12 feet below the existing grade (at an elevation of approximately 45 feet). Compressible soil materials under heavy foundation loads could result in significant structural damage due to soil consolidation and differential settlement,[10] particularly in areas of the site where buildings straddle native/fill transition zones. High water table levels could result in structural damage from hydrostatic pressure.

Impact GEO-1: Due to the compressible nature of the soils on-site, the combination of documented fill/undocumented fill/native soils, and the presence of shallow groundwater, there is a potential to expose people and structures to significant geologic hazards. **(Significant Impact)**

[10] Differential settlement occurs when soils or fill are present with differing rates of compaction, and materials settle to unequal levels.

Mitigation Measures: The project proposes to implement the following mitigation measures:

MM GEO – 1.1: Design and construct buildings in accordance with a design-level geotechnical investigation to be prepared for the project site, which shall identify the 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 geotechnical investigation shall be reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance for the project.

MM GEO – 1.2: Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

4.6.2.2 *Seismicity and Seismic Hazards*

As previously discussed, the project site is located in a seismically active region, and as such, strong ground shaking would be expected during the lifetime of any development on the site. While no active faults are known to cross the project site, groundshaking on the site could damage future buildings and other proposed structures, threatening future employees or visitors to the site.

The project site has several layers of sand which are liquefiable. After liquefaction is triggered the liquefied layers of sand could resettle in a way that is uneven and damaging to structures (seismic differential settlement). Seismic differential settlement on the project site could reach approximately ½-inch over a horizontal distance of 50 feet. The project will be constructed with foundations that are designed to tolerate the anticipated seismic differential settlements.

Liquefaction could result in lateral spreading in the southern portion of the project site. This hazard will be further evaluated during the design-level investigation, and the project shall incorporate measures into its design that will reduce the hazards of lateral spreading to a less than significant level.

Impact GEO-2: The project is subject to seismic and seismic-related hazards. **(Significant Impact)**

Mitigation Measure: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR to be required of future development in North San José and is proposed by the project:

MM GEO-2.1: The project shall be designed and constructed in conformance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking and seismic-related hazards on the site.

MM GEO-2.2: Extension of public utilities and infrastructure to serve the development would be required to be designed to withstand seismic and structural damage in conformance with General Plan policies.

4.6.3 Conclusion

Impact GEO-1: The proposed project, with the implementation of the above mitigation measures (MM GEO-1.1 and 1.2), would not result in any new or more significant geologic impacts from compressible soils or shallow groundwater than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact GEO-2: The proposed project, with the implementation of the above mitigation measures (MM GEO-2.1 and 2.2), would not result in any new or more significant seismic-related hazard impacts on-site than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.7 GREENHOUSE GAS EMISSIONS

The following discussion is based in part on a Greenhouse Gas Assessment prepared by *Illingworth & Rodkin, Inc.* in July 2010. A copy of this report is included as Appendix D of this Addendum/Initial Study.

4.7.1 Existing Setting

4.7.1.1 *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 on global climate change and greenhouse gas emissions is based upon the California Global Warming Solutions Act of 2006 (Assembly Bill (AB) 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 (IPCC), the United States Environmental Protection Agency, California Air Resources Board, and the 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, methane, and nitrous oxide.[11] 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.

Naturally occurring greenhouse gases include water vapor, carbon dioxide, methane, nitrous oxide, and ozone.[12] 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.

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 Assembly Bill (AB) 32, has approved the *Climate Change Scoping Plan***.** AB 32 requires achievement by 2020 of a statewide greenhouse gas emissions limit equivalent to 1990 emissions, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions. The ARB 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.

The California Natural Resources Agency, as required under state law (Public Resources Code §21083.05) has amended the State CEQA Guidelines to address the analysis and mitigation of

[11] 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/

[12] Concentrations of water are highly variable in the atmosphere over time, with water occurring as vapor, cloud droplets and ice crystals. Changes in its concentration are also considered to be a result of climate feedbacks rather than a direct result of industrialization or other human activities. For this reason, water vapor is not discussed further as a greenhouse gas.

greenhouse gas emissions, effective March 18, 2010. In these changes to the CEQA Guidelines, Lead Agencies, such as the City of San José, retain discretion to determine the significance of impacts from greenhouse gas emissions based upon individual circumstances. Neither CEQA nor the CEQA Guidelines provide a specific methodology for analysis of greenhouse gases and under the amendments to the CEQA Guidelines, a Lead Agency may describe, calculate or estimate greenhouse gas emissions resulting from a project and use a model and/or qualitative analysis or performance based standards to assess impacts.

Given the global scope of global climate change, the challenge under CEQA is for a Lead Agency to translate the issue down to the level of a CEQA document for a specific project in a way that is meaningful to the decision making process. Under CEQA, the essential questions are whether a project creates or contributes to an environmental impact or is subject to impacts from the environment in which it would occur, and what mitigation measures are available to avoid or reduce impacts.

BAAQMD CEQA Guidelines

The adopted *BAAQMD CEQA Guidelines* (June 2010) provide new and updated CEQA thresholds for analyzing air quality impacts, including a threshold for greenhouse gas emissions. Under the threshold, if a project would result in operational-related greenhouse gas emissions of 1,100 metric tons (or 4.6 metric tons per service population) of carbon dioxide equivalents (CO_{2e}) per year or more, it would make a cumulatively considerable contribution to greenhouse gas emissions and result in a cumulatively significant impact to global climate change. The *BAAQMD CEQA Air Quality Guidelines* also outline a methodology for estimating greenhouse gases, including use of the URBEMIS model for direct emissions from land use projects.[13]

4.7.1.2 *General Plan Policies*

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

- Solid Waste Goal #2: Promote Source Reduction, Recycling, and Composting.
- Air Quality Policy #2: Expand and Improve Public Transportation to Conserve Energy and Reduce Air Pollution.
- Air Quality Policy #6: Enforce City's Ozone-Depleting Compound Ordinance for Building Construction.
- Energy Policy #2: Site Residential Development Near Employment Centers.

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 10 goals of the *Green Vision* are as follows:

1. Create 25,000 Clean Tech jobs as the World Center of Clean Tech Innovation;
2. Reduce per capita energy use by 50 percent;

[13] Bay Area Air Quality Management District, Draft CEQA Guidelines. Accessed June 18, 2010. http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Proposed-Guidelines.aspx,

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

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

In October 2008, the City Council adopted the Private Sector Green Building Policy (6-32) that establishes baseline green building standards for private sector new construction and provides a framework for the implementation of these standards. This policy requires that applicable projects achieve minimum green building performance levels using the Council adopted standards. The proposed project would be subject to this policy. A residential project of greater than 10 units, such as the proposed project, would be required to achieve LEED Certified rating or Build it Green (BIG) rated 50 points. Commercial development greater than 25,000 feet is required to achieve LEED Silver certification.

In addition, the City of San José is currently preparing a Greenhouse Gas Reduction Strategy that will identify current and projected greenhouse gas emissions and measures for local government and the community to implement to reduce and avoid greenhouse gas emissions. The Greenhouse Gas Reduction Strategy will include community input and is anticipated to be completed in 2010.

4.7.1.3 *Existing Conditions*

Currently, most of the project site is vacant with two office buildings located on the northern portion of the site.

4.7.2 Environmental Checklist and Discussion of Impacts

GREENHOUSE GAS EMISSIONS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)
Would the project: 1) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	☐	1,5,11

GREENHOUSE GAS EMISSIONS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)
Would the project: 2) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	☐	1,2, 5,11

4.7.2.1 *Greenhouse Gas Emission Impacts*

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 constructing and operating the project. The greenhouse gas emissions from the project include:

- 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, HVAC systems, and to convey water to and wastewater from the site;
- Emissions associated with natural gas usage; and
- Emissions from solid waste transportation and landfilling.

Greenhouse gas emissions associated with the proposed project were calculated using the BAAQMD-recommended URBEMIS2007 model and the BAAQMD Greenhouse Gas Model (BGM) that converts the URBEMIS outputs to CO_{2e} emissions. Measures included in the project to reduce fuel, utility, and water use by building residents and employees are listed in *Section 3.3.6.1* of this Initial Study. Implementation of these measures is assumed in the model, where applicable, as discussed below.

Construction Emissions

Construction of the project would involve emissions associated with equipment and vehicles used for demolition, grading, and construction as well as emissions associated with manufacturing materials used to construct the project. The URBEMIS2007 model was used to provide rough estimates of the emissions associated with construction equipment and vehicle activity. There are, however, no reliable methods to estimate construction-related emissions associated with the manufacturing of project materials. BAAQMD does not have a construction-period threshold for greenhouse gas (GHG) emissions but does require the calculation of construction emissions. Construction emissions from development of the project site were assumed to occur over a three-year period. The construction emissions for the planned North San José development on the site and the two project development scenarios are shown in Table 4.7-1 below. The project's construction emissions are

also shown amortized over 30 years in order to estimate the project's annual emissions over the lifetime of the project.

Table 4.7-1
Annual Construction GHG Emissions Estimates

Year	Emissions in Metric Tons CO_{2e}		
	North San José Approved	**Scenario 1**	**Scenario 2**
2011	335	627	683
2012	445	812	896
2013	168	288	316
Total	948	1,727	1,895
30-Year Amortization	31.6	57.6	63.2

The construction emissions when amortized over the lifetime of the project would not contribute significantly to annual GHG emissions.

Operational Emissions

Operational CO_{2e} emissions estimates for the planned North San José development on the site and the two project development scenarios are shown in Table 4.7-2 on the following page.

Mobile Sources

Mobile source emissions from the project were estimated based on project-specific trip generation rates from the project's traffic analysis. The greenhouse gas emissions estimates are based on traffic assumptions for the San Francisco Bay Area with adjusted trip lengths to reflect the planned mixed-use nature of development in North San José and the potential for passby trips due to the mix of commercial and residential uses on the site. The emissions estimates also take into account the transit, pedestrian, and bicycle access for the project site.

Electricity Use Emissions

Electricity consumption would result in indirect emissions from the proposed project. The City of San José's Private Sector Green Building Policy (6-32) requires the commercial component of the project achieve LEED Silver certification and the residential component of the project achieve LEED Certification or a GreenPoint rated score of at least 50 points. The project buildings, therefore, are assumed to be 20 percent more efficient than Title 24 standards. Emissions estimates from electricity use are based on a state average.

Natural Gas

Emissions associated with natural gas usage are based on the BGM results. The BGM applies typical natural gas usage rates for the proposed land uses based on the California Climate Action Registry (CCAR).

Water and Wastewater

The BGM estimates emissions associated with electricity demand to convey water and wastewater to the project site. These estimates are based on the BGM default rates and are a relatively small component of the total emissions generated by the project.

Solid Waste

The BGM estimates emissions associated with waste transportation and land filling. The distance to landfills in the Alviso area of San José and the City's waste diversion rate of 61 percent[14] are assumed for these emissions estimates. Although not quantified in the solid waste emissions estimate, the project would be required to successfully participate in the City's Construction and Demolition Diversion Deposit Program to reduce the amount of construction waste going to the landfill.

Area Sources

Area source emissions calculated for the project scenarios include landscape maintenance equipment, consumer products, and architectural coatings. These emissions represent a small proportion of the total emissions.

Table 4.7-2
Annual Operational GHG Emissions Estimates

Emissions Source	Annual Emissions in Metric Tons CO_{2e}		
	North San José Approved	Scenario 1	Scenario 2
Mobile Sources[a]	2,032	4,930	3,876
Electricity Use	1,869	1,256	2,037
Natural Gas	415	656	706
Water/Wastewater	54	80	381
Solid Waste	533	42	110
Area Sources	--	4	4
Total Emissions	4,902	6,968	7,114
Service Population (SP)	--	2,156	2,624
CO2e Emissions per SP	--	3.2	2.7

Notes: [a] Assumes an average trip length of five miles.

The proposed project would result in short-term emissions of greenhouse gases during site clearing and construction and would increase emissions through vehicle trips and utility usage at the site. Based on the project's infill location, access to transit, and incorporation of energy and water efficiency measures, the project would not exceed BAAQMD's efficiency threshold for GHG emissions, even when taking into consideration construction GHG emissions. The project's calculated annual contribution to GHG emissions would result in a less than significant impact.

[14] California Integrated Waste Management Board. "Jurisdictional Profile for City of San José". Accessed June 29, 2010. Available at: <http://www.calrecycle.ca.gov/Profiles/Juris/JurProfile2.asp?RG=C&JURID=444&JUR=San+Jose>

Standard Measure: The project will implement the following standard measure:

SM GHG-1: The project shall conform to the City's Private Sector Green Building Policy (6-32).

4.7.2.2 *Impacts from Climate Change*

Climate change effects expected in California over the next century could include reduced water supply, impact from sea level rise, an increase in the number of days per year ozone pollution levels are exceeded, and increased electricity demand, particularly in the hot summer months.

Impacts to the project from global climate change could include reduced water availability due to droughts. Water would be used on the site for potable water supplies, plumbing fixtures, and landscape use. Due to the size of the project and City's requirements for efficient water uses, the proposed project would not be a major new water user. At this time, neither the State Department of Water Resources, Santa Clara Valley Water District (SCVWD) nor the City of San José has established the effects of global climate change on water supplies in California or locally. The SCVWD and local water retailers continue to work to ensure sustainable and reliable water supplies through a range of activities, including water conservation.

The project site is approximately 10 miles from the San Francisco Bay. The California Climate Action Team predicts that sea level will rise by 55 inches (about 4.6 feet) by the year 2100. Based on the sea level rise and coastal flooding maps for the South Bay, the project site would not be affected by the predicted sea level rise.[15]

An increase in summer temperatures and the number of days ozone pollution levels are exceeded can contribute to adverse health effects ranging from minor restricted activity days and work loss days, to hospitalizations due to asthma-related, bronchitis, and other respiratory or cardiovascular symptoms, to premature deaths. The proposed project would provide housing for sensitive populations. Like other residential uses in San José, new residents could be subject to effects of higher temperatures and air pollution if warming temperatures occur locally.

Energy use on the project site could incrementally rise during the hot summer months because energy use for building cooling could increase. In the event regional demand exceeded supply, this could result in temporary interruptions in power supply. For the proposed project at this location in the City of San José, this would be primarily an economic, rather than an environmental impact and is not discussed further.

4.7.3 Conclusion

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

[15] Sources: 1) San Francisco Bay Conservation and Development Commission. Shoreline Areas Vulnerable to Sea Level Rise: South Bay. Map. 2008. Available at: <http://www.bcdc.ca.gov/planning/climate_change/climate_change.shtml> 2) California Climate Change Center. Impacts of Sea-Level Rise on the California Coast. March 2009.

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based on various reports prepared by *Cornerstone Earth Group* from 2007 to 2010. A copy of each of these reports is included in Appendix E of this Addendum/Initial Study.

4.8.1 Existing Setting

4.8.1.1 *General Plan Policies*

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

- Hazardous Materials Policy #1: Require Proper Storage and Disposal of Hazardous Materials.
- Hazardous Materials Policy #3: Soil and Groundwater Contamination Analysis for New Development.
- Soils and Geologic Conditions Policy #9: Mitigate/Remediate Soils Contamination.

4.8.1.2 *Site Conditions*

As discussed in *Section 3.2*, the site includes two office/R&D buildings totaling approximately 129,000 square feet and a vacant lot which was formerly used as a metal recycling facility.

Historic Uses on the Project Site

1633 Oakland Road

A pear orchard was operating on the site prior to the development of a metals recycling facility in 1964. These operations included sorting, shredding, and compressing of ferrous (iron) and non-ferrous metals. Sorted metals were transported off-site for recycling. Structures on the site consisted of two mills, two warehouse/storage buildings, an office building, a wire chopping building, truck scales, a building used to separate residual wire casings, a vehicle and equipment maintenance shop, wire sorting and bailing structures, three railroad spurs, and outdoor processing equipment.

A debris pit was constructed on this portion of the site for solid wastes, including paper and plastic packaging, wire, metal, shavings, wood, glass, concrete fragments, tires, and cloth. These refuse materials were buried in the pit until approximately 1970. No batteries or transformer casings were disposed in the pit. The wastes were placed in compacted layers covered by soil. The debris pit area was capped with soil and paved over in the early 1970s.

There were four underground storage tanks (USTs) on site; the last tank was removed in 2001. All have been closed under the oversight of the San José Fire Department (SJFD).

1040, 1060, and 1080 East Brokaw Road

Prior to 1956, the site was used as a pear orchard. The metal recycling facility described above, located at 1633 Oakland Road, also extended onto this portion of the site in the general area of the former 1040 East Brokaw Road building which was removed in 2008. The building formerly at 1040 East Brokaw Road was used for various electronics companies as office space and an electronics research, development, and distribution center.

The buildings currently at 1060 and 1080 East Brokaw Road were constructed in 1998. Row crops were grown on the site from the 1970s until the current buildings were constructed. The building at 1060 East Brokaw has been occupied by STMicroelectronics since its construction and used for general offices and electronics research and development. The building at 1080 East Brokaw Road has been occupied by TCI, AT&T, and Comcast for general office space and a data call center.

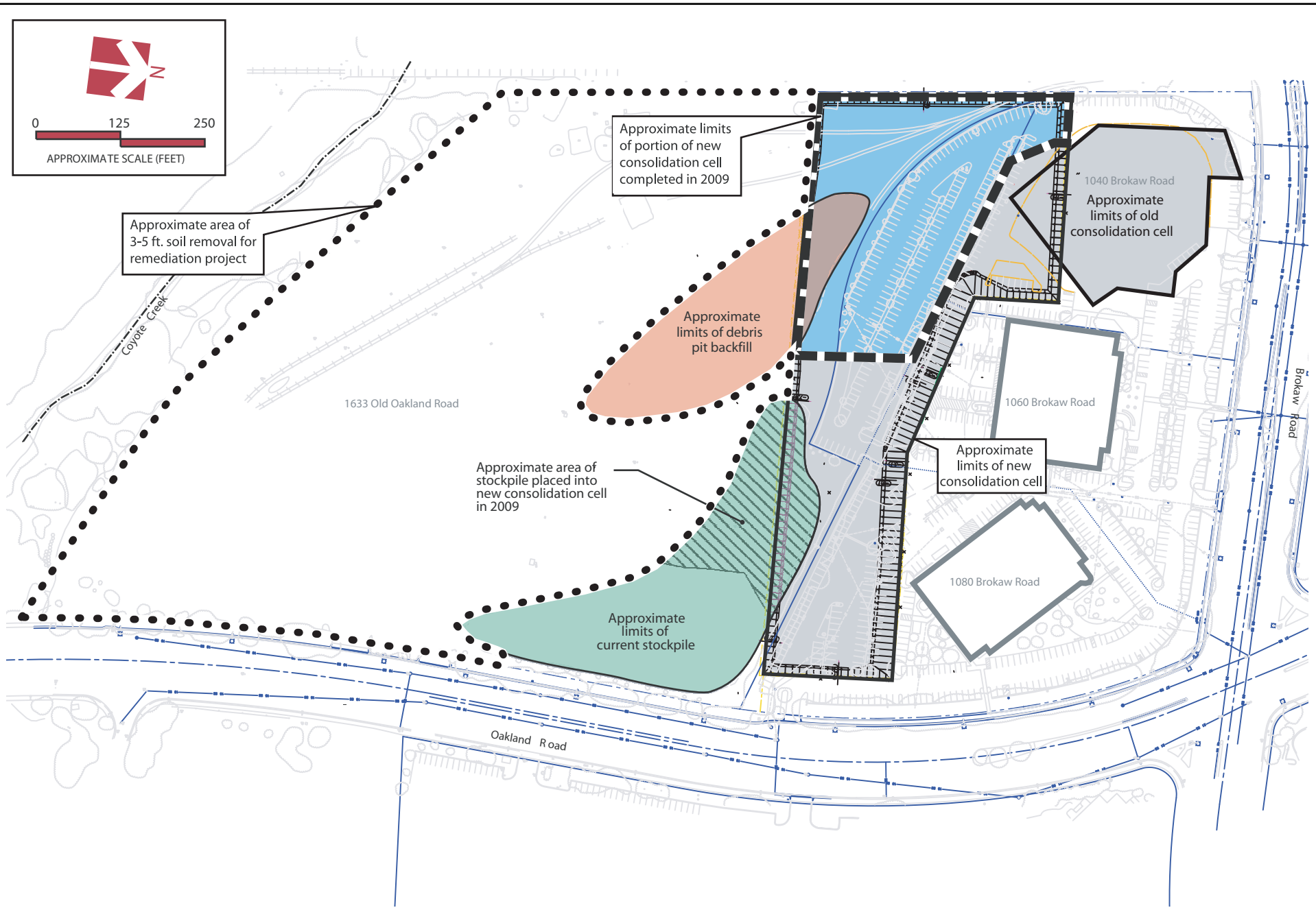
Significant quantities of hazardous materials do not appear to have been used in the three buildings on this portion of the site with the exception of a 350 gallon above-ground storage tank (AST) used to store diesel fuel for an emergency generator at 1080 East Brokaw Road. There have been no reported releases associated with the diesel AST. At the time 1080 East Brokaw was vacated in 2002, the AST was cleaned and locked-out under the oversight of the City of San José Fire Department.

Soil Investigations and Remediation

1633 Oakland Road

A Removal Action Workplan (RAW) was approved for the site in November 2004. A Risk-Based Remedial Goal Calculations report was prepared for the site as part of the RAW which identified chemicals of concern (COCs) in soils on the site including, arsenic, cadmium, chromium III, copper, lead, nickel, dichloro-diphenyl trichloroethane (DDT), polynuclear aromatic hydrocarbons [(PAHs) (PAHs of concern were benzo (a) pyrene, benzo (b) fluoranthene, benzo (a) anthracene)], polychlorinated biphenyls (PCBs), total petroleum hydrocarbons diesel (TPHd), total petroleum hydrocarbons motor oil (TPHmo), and total oil and grease (TOG) (refer to Appendix E).

The initial phase of cleanup was performed during 2006 in accordance with the RAW. Soil with PCBs detected above 10 parts per million (ppm) initially was removed for off-site disposal. Remaining soil with COCs detected above the unrestricted cleanup goals then was excavated from much of the site and placed into an interim stockpile located on the northeast portion of the site (refer to Photo 4). Soil with COCs above residential cleanup goals was temporarily left in-place beneath the interim stockpile. In addition, the debris pit remained in-place until it was removed during March to May of 2008. The debris was removed for off-site disposal. Laboratory analyses of final soil samples collected following the removal of the impacted soil and debris did not detect COCs above residential/unrestricted cleanup goals. A portion of the interim stockpiled soils were placed in a new consolidation cell on the Fox Property project site in 2009 (refer to Figure 4.8-1); the remainder of the interim stockpile will be placed into the new consolidation cell during 2010. After removal of the interim stockpile and the underlying impacted soil, verification soil samples will be collected and analyzed to document removal of soil exceeding residential/unrestricted cleanup goals.



Source: Base Map provided by Charles W Davidson, 2009 ; Cornerstone Earth Group

HAZARDOUS MATERIALS REMEDIATION AREAS

FIGURE 4.8-1

1040, 1060, and 1080 East Brokaw Road

Soils from the properties fronting on East Brokaw Road (1040, 1060, and 1080) were evaluated based on the California Human Health Screening Levels (CHHSLs) which were established by the California Office of Environmental Health Hazard Assessment and the California Environmental Protection Agency (CalEPA) to provide a preliminary evaluation of potential risks and hazards to human health. Soils analyzed from the western portion of this site in the location of the former Markovits and Fox recycling facility, contained polychlorinated biphenyls (PCBs), dichloro-diphenyl trichloroethane (DDT), arsenic, and lead above residential CHHSLs. In addition, DDT, arsenic, and lead were detected in the soil samples collected from the historical agricultural portion of the site above residential CHHSLs. Concentrations of PAHs detected in soil samples were below residential screening levels (CHHSLs) and are not of significant concern in this portion of the site. Petroleum hydrocarbons were detected above the site-specific residential/unrestricted cleanup goals at one location beneath 1040 East Brokaw Road.

Groundwater Evaluation

1633 Oakland Road

Groundwater monitoring wells on the site were formerly used to monitor groundwater quality in the former debris pit area on a quarterly basis. The latest groundwater samples on the site detected arsenic, naphthalene, total petroleum hydrocarbons gasoline (TPHg) and TPHd above maximum contaminant levels or environmental screening levels. Because the debris pit has been removed, the DTSC agreed to discontinue groundwater monitoring in the former debris pit area.

1040, 1060, and 1080 East Brokaw Road

Groundwater was not encountered on the northern portion of the site during investigations in 2006; however, soil samples were tested from what appeared to be the shallow ground water zone. These samples did not detect VOCs, TPHd, TPHg, benzene, toluene, ethylbenzene, and xylene (BTEX). Low concentrations of DDT and TPHmo were detected in these soil samples. In addition, DTSC required the evaluation of ground water quality up-gradient and downgradient of the portion of the site (1040 East Brokaw Road) formerly used for recycling activities associated with the adjacent property. Laboratory analyses of the two groundwater grab samples collected during August 2007 from borings in the vicinity of the former recycling area did not detect gasoline range hydrocarbons, VOCs, organochlorine pesticides, or PCBs. Antimony, arsenic, barium, molybdenum, selenium, vanadium, and zinc were detected at concentrations below drinking water standards; other 17 California Assessment Manual (CAM) metals were not detected.

TPHd was detected in one ground water grab sample at 428 parts per billion (ppb). The TPHd concentration detected appears similar to the concentrations detected in or near the former debris pit area (refer to Figure 4.8-1) at 1633 Oakland Road. The DTSC will require a minimum of one year of groundwater monitoring in the new consolidation cell area.

Approved Removal Action Work Plan

Introduction

A Removal Action Work Plan (RAW) was approved by the Department of Toxic Substances Control (DTSC) for the portion of the site located at 1633 Oakland Road in November 2004. The plan

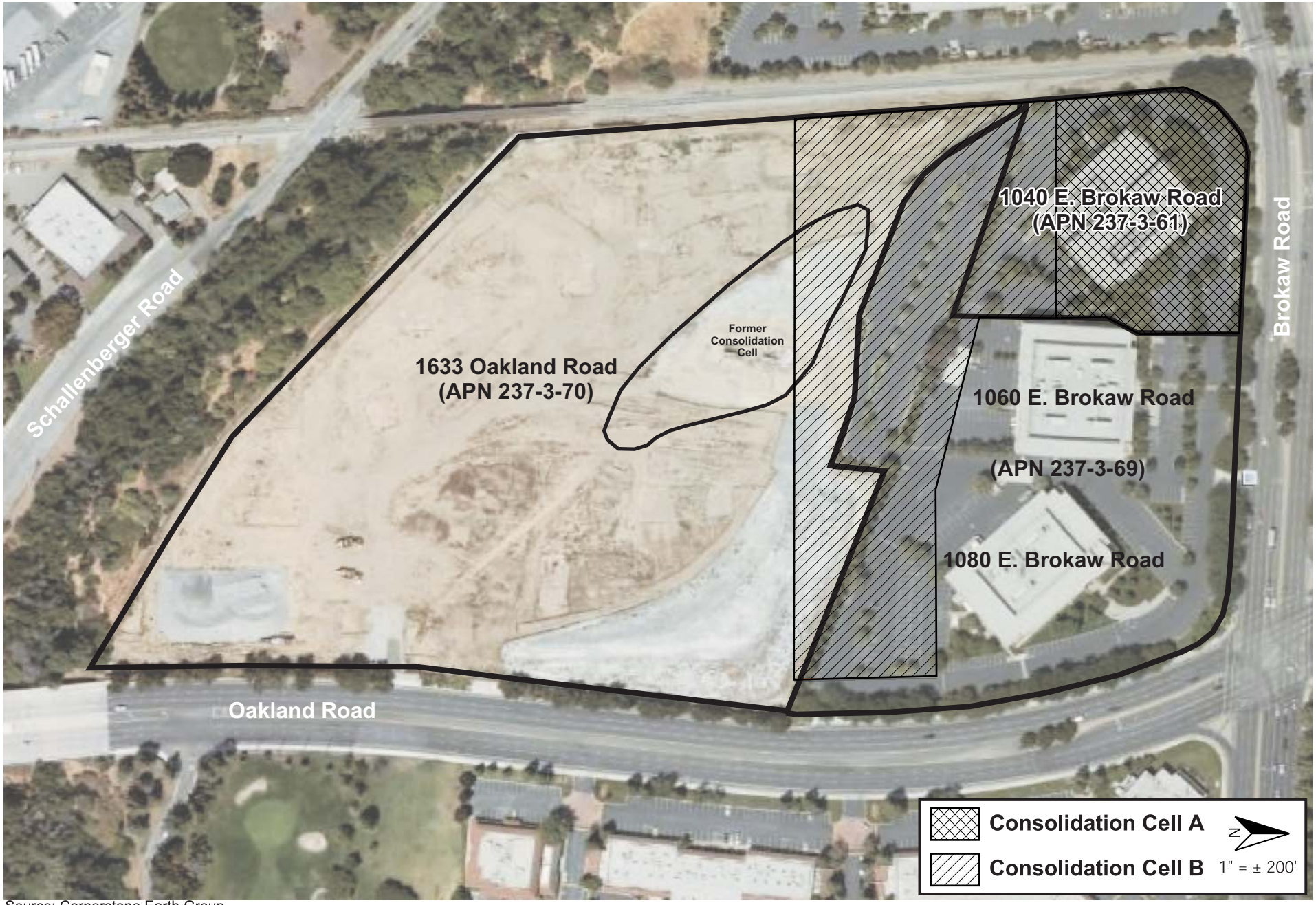
requires cleanup of the contamination on the site to an acceptable level to allow redevelopment of the site. The plan was modified after the previous General Plan Amendment for the site allowed residential uses on the southern portion of the property. Cleanup of the site is currently being undertaken by the property owner independent of the proposed GPA and PD zoning for residential and commercial use. The plan was revised based on Alternative 4 in the RAW and the site boundary was redefined to include 1040, 1060, and 1080 East Brokaw Road (those areas currently developed with R&D and office buildings). A RAW addressing the East Brokaw Road properties was approved in April 2008. As previously mentioned portions of the project site on East Brokaw Road are also contaminated with similar constituents as the 1633 Oakland Road site. The currently approved RAWs for the site are discussed in greater detail below.

Approved Removal Action Work (RAW) Plans

As stated above, the property owner is currently completing cleanup of 1633 Oakland Road and 1040, 1060, and 1080 East Brokaw Road based on the RAWs approved by the DTSC. The approved plans will cleanup 13.7 acres on the southern portion of the site to unrestricted levels, meaning that residential uses would be allowed on the remediated portions of the 1633 Oakland Road site. In conformance with the approved plans, soils exceeding 10 parts per million (ppm) PCBs and any contaminants co-located with the PCBs will be excavated and removed from the site for disposal at a licensed facility. Soils exceeding residential or background goals for all chemicals of concern (COCs) will be excavated and consolidated into one new consolidation cell and capped on a portion of the 13.7 acres of the site proposed for commercial use (refer to Figure 4.8-2). In addition, soil beneath the area of the former 1040 East Brokaw Road office building that exceeds residential/ unrestricted cleanup goals will be capped in-place. The former debris pit was excavated from 1633 Oakland Road and its contents were removed from the site. The two consolidation cells located on the commercial portion of the property will be capped with a Toxic Substances Control Act (TSCA) compliant cap that will be a minimum of one-foot thick. The consolidation cells on the site and the remainder of 1060 and 1080 East Brokaw Road are the only areas requiring a long-term management plan. Any disturbance, modification, or cap maintenance must have the prior approval of the DTSC. The proposed consolidation cell areas are shown on Figures 4.8-1 and 4.8-2.

Under the approved plans, land-use covenant/deed restriction(s) will be placed on the consolidation cell areas and possibly the remainder of 1060 and 1080 East Brokaw Road. Land overlying the consolidation cells and possibly the remainder of 1060 and 1080 East Brokaw Road would be limited to retail/commercial use, parking area, landscaping, private roads, and private passive open space/recreation center by a deed restriction. Any deed restriction will prohibit sensitive land use such as a residence, school, hospital, hospice, or daycare center without prior approval of the DTSC.

An Operations and Maintenance (O&M) Plan is required, under the approved plans, to provide guidelines for the management of residual contaminants in soil and groundwater. The O&M plan includes a description of the groundwater monitoring program and a Site Management Plan (SMP). The SMP will include practices and work procedures for activities involving the impacted material; access limitations; safety measures for future maintenance and/or construction workers; as well as notification processes to future occupants or contractors that may perform intrusive earthwork. In addition, the SMP would include a discussion of long-term risk to human health and long-term compliance with the SMP including an annual inspection of the cap by DTSC staff. The SMP shall also include storm water pollution controls, which must be implemented in accordance with the site-specific storm water pollution prevention plan (SWPPP).



Source: Cornerstone Earth Group

CONSOLIDATION CELL LOCATIONS

FIGURE 4.8-2

Under the approved remediation plans, a site-specific health and safety plan is required to be prepared prior to initiation of construction activities at the site. Construction workers at the site who contact soil will be required to have appropriate California Occupational Safety and Health Administration (OSHA) health and safety training. A financial instrument will be established to cover the long-term operation and maintenance activities. Groundwater monitoring will be monitored for at least one year and will continue until all COCs are below regulatory standards or until DTSC approves discontinuing of groundwater monitoring activities. Under the approved remediation plans, DTSC will evaluate groundwater monitoring after the first five-year evaluation.

4.8.1.3 *Potential Off-Site Sources of Contamination*

A database search was undertaken for the purpose of identifying all sites within the project area where there are known or suspected sources of contamination, as well as sites that handle or store hazardous materials. Based on information in these database records including the type of release, current case status, and distance and direction from the site, no reported hazardous materials spills or releases in the vicinity of the site have a potential to affect the project.

4.8.1.4 *Hazardous Materials Use and Storage in the Project Vicinity*

The project site is located in an area that contains a mix of land use including office/R&D, commercial, residential, and industrial uses south of Coyote Creek. Given the mix of uses in the project area and distance to industrial uses, a one-half mile radius was used to identify any hazardous materials used in the project vicinity that may impact future residents in the event of an accidental release. In order to identify businesses near the project site that use and store hazardous materials, a visual survey of the surrounding business was completed. In addition, a regulatory agency database report from *Environmental Data Resources, Inc*. was obtained to help identify hazardous materials users near the site. Based on the survey of the vicinity and a review of the database report, selected San José Fire Department files for facilities that use significant quantities of hazardous materials were further reviewed for nearby facilities. No California Accidental Release Prevention (CalARP) Program facilities were located within one-half mile of the site; however, three CalARP facilities were located within one mile of the site (Univar, Airdrome, and Hill Brothers). The review of hazardous materials usage in the project vicinity identified 15 facilities that store significant quantities of hazardous materials. The potential for these facilities to release hazardous materials that may impact residential uses on the site is discussed in *Section 4.8.2.2*.

4.8.2 Environmental Checklist and Discussion of Impacts

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project: 1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐	1,12,13, 14

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐	1,12,13, 14,15, 16,17
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐	1,12,13, 14
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐	1,12,13, 14
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐	1
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	☐	1

4.8.2.1 *Potential On-Site Sources of Contamination*

As described above, the site continues to undergo soil remediation work in accordance with an approved Remedial Action Workplan that is overseen by the Department of Toxic Substances

Control. Elevated arsenic concentrations in groundwater on the site have been determined to be consistent with background levels. Other groundwater contamination on the site has been attributed to historical site operations and continues to be investigated as part of the remediation work on the site. The proposed PD zoning would allow mixed-use commercial and residential development on portions of the project site that would contain deed restrictions based on the currently approved remediation plans for the site.

Impact HAZ-1: Soil and groundwater were contaminated by the previous recycling facility that operated on the project site and have the potential to impact residents of the proposed development. **(Significant Impact)**

Mitigation Measures: The project proposes to implement the following mitigation measures to reduce hazardous materials contamination on the site to a less than significant level:

MM HAZ-1.1: The applicant will continue to work with the Department of Toxic Substances Control under a voluntary cleanup agreement to remediate existing contamination to a level compatible with the proposed development on the site and in accordance with the approved remediation plans. Prior to the issuance of a PD Permit, the applicant must demonstrate to DTSC and the Director of Planning, Building, and Code Enforcement that all remediation actions necessary to ensure the health and safety of future users of the proposed development site have been completed.

4.8.2.2 *Potential Off-Site Sources of Impact*

Hazardous Materials Contamination

Based upon available information, no hazardous material incidents have been reported in the site vicinity that would be likely to significantly impact the site, either due to case closure status, proximity to the project site, or location (down-gradient or cross-gradient) in relation to the project site (refer to Appendix E).

Potential Sources of Risk Due to Accidental Chemical Releases

A Screening Level Vicinity Hazardous Materials Risk Assessment was prepared to evaluate selected hypothetical catastrophic releases of hazardous materials from nearby facilities and their potential impacts to the proposed project (refer to Appendix E). In accordance with U.S. EPA and Cal/EPA guidelines, potential risks were estimated using conservative worst-case hypothetical chemical releases that were evaluated to be representative of the surrounding industrial operations. Worst-case releases are generally defined as the loss of entire contents over a ten-minute period. In addition, all releases were modeled using stable meteorological conditions. During stable meteorological conditions and low wind speeds, the vertical and horizontal dispersion of a release is minimized, resulting in higher predicted downwind concentrations.

Thresholds

The criteria to determine the levels of chemical concentrations of concern are drawn from the American Industrial Hygiene Association's Emergency Response Planning Guidelines (ERPGs), and the National Institute of Occupational Safety and Health Immediately Dangerous to Life and Health Concentrations (IDLHs). ERPGs and IDLHs are defined in Table 4.8-1. The Bay Area Air Quality

Management District (BAAQMD) recommends the use of ERPG exposure level 2 (ERPG-2) as criteria for evaluating significant impacts. In addition, the U.S. EPA generally defines the area of impact in the Risk Management Program (RMP) as the ERPG-2 concentration. In the absence of ERPG guidelines, the U.S. EPA has recommended 1/10 of the IDLH concentrations for planning purposes.

Table 4.8-1
Definitions of Emergency Response Guidelines (ERPGs) and Immediately Dangerous to Life and Health Concentrations (IDLHs)

Criteria	Definition
ERPG-1	ERPG exposure level 1 is defined as the maximum airborne concentration, which is believed that nearly all individuals could be exposed to for up to one hour without experiencing more than mild, transient adverse health effects or without perceiving a clearly defined objectionable odor.
ERPG-2	ERPG exposure level 2 is defined as the maximum airborne concentration which is believed that nearly all individuals could be exposed to for up to one hour without experiencing or developing irreversible or other serious side effects of symptoms that could impair an individual's ability to take protective action.
ERPG-3	ERPG exposure level 3 is defined as the maximum airborne concentration, which is believed that nearly all individuals could be exposed to for up to one hour without experiencing or developing life-threatening health effects.
IDLH	IDLH represent maximum concentrations from which, in the event of a respirator failure, one could escape within 30 minutes without a respirator and without experiencing an escape impairing or irreversible health effects. IDLHs are assumed to be applicable to healthy adult workers in the work place and do not take into account exposure of more sensitive individuals.

Analysis

Eight scenarios were chosen for risk assessment modeling based on the identification of chemicals that are likely to have off-site consequences if catastrophically released. In general, chemicals that are acutely toxic, exist in a form that readily allows off-site transport following release, and are used/stored in sufficient quantities are assumed to represent potential chemicals of concern (COCs). The scenarios modeled although improbable are considered possible. Releases were assumed to occur outside and were modeled assuming urban dispersion coefficients: wind speed of 1.5 meters per second, stable atmospheric conditions, and an outside temperature of 70 degrees Fahrenheit. The scenarios selected were also deemed representative of the potential risks posed by facility chemicals that were not modeled. Additional information regarding the modeling assumptions for this analysis are provided in Appendix E. The COCs identified at each facility and the selected facility release scenarios are summarized in Table 4.8-2 on the following page.

Table 4.8-2
Facilities and Chemical Release Results

Release Scenario	Estimated Threat Zone (ERPG-2)	Predicted Exterior Concentrations (ppm[1])	Emergency Planning Concentrations (ppm[1])
San José Mercury News – approximately 0.2 miles from the site			
Propane	447 feet	499	2,000 (10 percent LEL[2])
Con Agra – approximately 0.4 miles from the site			
Methylene Chloride	0.03 miles	10.2	IDLH = 2,300 ERPG-2 = 750 ERPG-3 = 4,000
Gorilla Circuits – approximately 0.45 miles from the site			
Hydrochloric acid	0.36 miles	12.6	IDLH = 50 ERPG-2 = 20 ERPG-3 = 150
Airdrome Orchards – approximately 0.6 miles from the site			
Ammonia Release	1.3 miles	542	IDLH = 300 ERPG-2 = 150 ERPG-3 = 750
Hill Brothers Chemical – approximately 0.8 miles from the site			
Ammonia Release	0.67 miles	111	IDLH = 300 ERPG-2 = 150 ERPG-3 = 750
Ammonium Hydroxide	0.44 miles	53	IDLH = 300 ERPG-2 = 150 ERPG-3 = 750
UNIVAR USA – approximately 0.9 miles from the site			
Hydroflouric Acid	0.21 miles	1.6	IDLH = 30 ERPG-2 = 20 ERPG-3 = 50
Shell Oil Products – approximately 1.0 miles from site			
Gasoline	0.98 miles	291	IDLH = 500 ERPG-2 = 300 ERPG-3 = 1,000
Gasoline Vapor Cloud	0.27 miles	Not Computed	13,000 (LFL[3])

Notes: [1] parts per million
[2] The Lower Explosive Limit is the limiting concentration in air that is needed for the gas or vapor to ignite and explode.
[3] The Lower Flammability Limit is the lower end of the concentration range that the air/vapor mixture of a flammable solvent can ignite.

The facilities with the potential to impact the site in the event of a catastrophic release of ammonia or gasoline are Airdrome Orchards and Shell Oil, respectively. The Airdrome Orchards facility, located approximately 0.6 miles south of the site, is not in the prevailing upwind direction (prevailing wind reportedly is from the northwest). In addition, this facility reported a 0.6-mile distance to the Toxic Endpoint in their RMP. The differences from that calculation to the estimate presented in Table 4.8-2 above is most likely due to the storage of the ammonia in an interior mechanical room; a release to the interior would be passively attenuated. Further, a more likely release alternative scenario identified by this facility will not have a significant impact to the site during periods of calm weather.

Shell Oil is located approximately one mile to the northwest from the Site. The modeled toxic endpoint distance for gasoline is just less than one mile.

All of the facilities modeled for catastrophic releases have programs and engineering controls in place that would reduce the likelihood of a catastrophic release. The particular risk at any "location" in the vicinity of the Airdrome Orchards and Shell Oil is based on: (1) the likelihood of an event that compromises the integrity of the tank/piping system such that the COC is released; (2) the relative likelihood of release size and amount; (3) the likelihood that in place engineering features fail to mitigate the leaking COC; (4) the likelihood that there is an operational failure to initiate emergency shutdown and plant level emergency procedures; (5) the likelihood that first responders fail to or are unable to respond in a timely fashion; (6) the likelihood that wind is blowing towards the location; and (7) the likelihood that atmospheric conditions and wind speed are not conducive to rapid dispersion of the released. Based on the modeling results and safety controls in place at facilities handling large quantities of hazardous materials, none of the facilities in the vicinity of the project site appear to pose unacceptable risks to the project. Reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment would not impact future residents of the project site.

4.8.2.3 *Other Hazards*

The project site is not located within the Santa Clara County Airport Land Use Commission (ALUC) jurisdiction, nor would it conflict with the City's emergency operations plan. The project site is not located within a wildfire hazard zone.

4.8.3 Conclusion

Impact HAZ-1: Development of the proposed project in accordance with DTSC remediation requirements would not result in new or more significant hazards and hazardous materials impacts than those previously identified in the certified 2006 Fox Property GPA FEIR. **(No New Impact)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Introduction and Regulatory Framework

4.9.1.1 *National Pollution Discharge Elimination System Permit (NPDES)*

The discharge of stormwater from the City's municipal storm sewer system is regulated primarily under the federal Clean Water Act and California's Porter-Cologne Water Quality Control Act. The San Francisco Bay Regional Water Quality Control Board (RWQCB) implements these regulations at the regional level. The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed in accordance with the requirements of the revised 1995 version of the San Francisco Bay Basin Water Quality Control Plan, for the purpose of reducing water pollution associated with urban storm water runoff. 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 National Pollutant Discharge Elimination System (NPDES) Permit application requirements for various storm water discharges, including those from municipal storm drain systems and construction sites. The provisions of the SCVURPPP NPDES permit require each of the co-permittees, including the City of San José, to implement measures/Best Management Practices (BMPs) to reduce stormwater pollution from new development or redevelopment projects to the maximum extent practicable.

Additional water quality control measures were approved in October 2001 when the San Francisco Bay Regional Water Quality Control Board (RWQCB) adopted an amendment to the NPDES permit for Santa Clara County (permit number CAS 029718), Provision C.3. This amendment, which is commonly referred to as "C3," requires all new and redevelopment projects that result in the addition or replacement of impervious surfaces totaling one acre or more to: 1) include stormwater treatment measures; 2) ensure that the treatment measures be designed to treat an optimal volume or flow of stormwater runoff from the project site; and 3) ensure that stormwater treatment measures are properly installed, operated, and maintained.

As of August 15, 2006, this amendment requires all new and redevelopment projects that result in the addition or replacement of impervious surfaces totaling 10,000 square feet or more, to be designed with BMPs that reduce storm water pollution to the maximum extent practicable through source control measures and storm water treatment measures and to include hydraulically-sized TCMs.

4.9.1.2 *City of San José General Plan, Policy 6-29, and Policy 8-14*

General Plan Policies

In addition to the NPDES regulations and City stormwater policies, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating hydrology and water quality impacts resulting from planned development within the City. All future development allowed by the proposed land use designation change will be subject to the hydrologic policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Level of Service Policy #12: Minimize Flooding and Stormwater Damage through Project Design.
- Water Resources Policy #12: Require Specific Construction and Post-Construction Measures Control Quantity and Quality of Urban Runoff.
- Flooding Policy #1: Design New Development to Protect from 100-year Flood.

- Flooding Policy #7: Development Should Provide Flood Control Retention Facilities.

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

The City of San José's Policy No. 6-29 requires all new and redevelopment projects to implement Post-Construction Best Management Practices (BMPs)[16] and Treatment Control Measures (TCMs)[17] to the maximum extent practicable. This Policy also establishes specific design standards for Post-Construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

In 2005, the City of San José adopted the Post-Construction Hydromodification Management (Policy 8-14) to manage development related increases in peak runoff flow, volume and duration, where such hydromodification[18] is likely to cause increased erosion, silt pollution generation, or other impacts to local rivers, streams, and creeks.

Policy 8-14 requires stormwater discharges from new and redevelopment projects that create or replace one acre (43,560 square feet) or more of impervious surfaces to be designed and built to control project-related hydromodification, where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other impacts to beneficial uses of local rivers, streams, and creeks. The NSJADP establishes specified performance criteria for Post-Construction Hydromodification control measures (HCMs) and identifies projects which are exempt from HCM requirements. For example, projects that are exempt do not increase the impervious area of a site, as are projects that drain to exempt channels, or projects that discharge to stream segments that are either tidally influenced or hardened to the Bay.

4.9.2 Existing Setting

The site is located adjacent to the Coyote Creek and is within the Coyote Creek watershed. The Coyote Creek watershed originates in the Diablo Mountain Range to the east and south of San José and flows northerly along the eastern side of Santa Clara Valley eventually emptying into Guadalupe Slough and San Francisco Bay.

[16] Post-Construction Best Management Practices (BMPs) are methods, activities, maintenance procedures, or other management practices designed to reduce the amount of stormwater pollutant loading from a site. Examples of Post-Construction BMPs include proper materials storage and housekeeping activities, public and employee education programs, and storm inlet maintenance and stenciling.

[17] Post-Construction Treatment Control Measures are site design measures, landscape characteristics or permanent stormwater pollution prevention devices installed and maintained as part of a new development or redevelopment project to reduce stormwater pollution loading from the site; is installed as part of a new development or redevelopment project; and is maintained in place after construction has been completed. Examples of runoff treatment control measures include filtration and infiltration devices (e.g., vegetative swales/biofilters, insert filters, and oil/water separators) or detention/retention measures (e.g., detention/retention ponds). Post-Construction TCMs are a category of BMPs.

[18] Hydromodification occurs when the total area of impervious surfaces increases resulting in the decrease of rainfall infiltration, which causes more water to run off the surface as overland flow at a faster rate. Storms that previously did not produce runoff from a property under previous conditions can produce erosive flows in creeks. The increase in the volume of runoff and the length of time that erosive flows occur intensifies sediment transport, increasing creek scouring and erosion and causing changes in stream shape and conditions, which can, in turn, impair the beneficial uses of the stream channels.

The average annual rainfall in San José is approximately 15 inches, although precipitation can vary greatly year-to-year. Rainfall is fairly evenly distributed throughout the year, January being the wettest month with an average rainfall of 3.03 inches.[19] Storm runoff within the urbanized areas of the City of San José is discharged into local storm drains, which in turn flow to the creeks and ultimately to the Bay. The Santa Clara Valley Water District (SCVWD) has jurisdiction over most of the creek channels that collect runoff from the storm drains serving urban areas.

4.9.2.1 *Drainage and Flooding*

Flooding and Dam Inundation Potential

According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, the areas of the project site proposed for residential and commercial development are not located within the 100-year floodplain of Coyote Creek.[20]

According to the Association of Bay Area Governments (ABAG) dam failure inundation area hazard map, the project site would be subject to flooding in the event of dam failure at Anderson Reservoir.[21] Dams within Santa Clara County fall under the jurisdiction of the state Department of Water Resources, Division of Safety of Dams. The dams are inspected twice each year and are continuously monitored for seepage and settling. Whenever there is a significant earthquake in the region, the Santa Clara Valley Water District inspection teams are dispatched to each dam.[22]

Stormwater Drainage

The project site drains to the Coyote Creek through an existing 18- to 27-inch municipal storm drainage line in Oakland Road and a 60-inch municipal storm drainage line in Brokaw Road.

A 24-inch outfall from the site enters Coyote Creek approximately 250-feet from the western property line. A permit was issued in 1962 for the construction of the 24-inch outfall with a three-foot wide shaped earth ditch, and a sacked concrete headwall. The construction was in accordance with the Santa Clara Valley Water District standards at the time, but the addition of a poured concrete spillway was constructed without a permit and is not in accordance with current District standards. The outfall was filled in 2000 in order to avoid further discharge from the site to Coyote Creek as part of decommissioning of the recycling facility and all storm drainage lines were removed from the southern portion of the site.

The proposed Residential Area of the project site is currently undeveloped, and the proposed Commercial/Mixed-Use Area of the project site is mostly paved with two office/R&D buildings and surface parking lots. The 1040 East Brokaw portion of the proposed Commercial/Mixed-Use Area is a vacant gravel lot.

[19] City of San José website.
[20] Federal Emergency Management Agency. Flood Insurance Rate Map. Community Panel Number 06085C0069H. May 18, 2009.
[21] Association of Bay Area Governments. *Dam Failure Inundation Map for NW San José/Milpitas/Santa Clara.* Accessed on February 16, 2010 at: http://www.abag.ca.gov/cgi-bin/pickdamx.pl.
[22] Santa Clara Valley Water District. Accessed on February 18, 2010 at: http://www.valleywater.org/Services/Reservoirs.aspx.

Groundwater

Groundwater on the project site is estimated to be encountered at 20 to 25 feet below the existing grade (at an elevation of approximately 55 feet to 64 feet).

4.9.2.2 *Water Quality*

The water quality of streams, creeks, ponds, and other surface water bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as non-point source pollutants, are washed from streets, construction sites parking lots, and other exposed surfaces into storm drains. The runoff often contains contaminants such as oil and grease, plant and animal debris (e.g., leaves, dust, animal feces, etc.), pesticides, litter, and heavy metals. In sufficient concentration, these pollutants have been found to adversely affect the aquatic habitat of waterways such as Coyote Creek, which eventually flows into San Francisco Bay.

As noted previously, the project site lies within the Coyote Creek watershed. Various land uses occupy this watershed, with each land use discharging different types of contaminants. Under existing conditions, the project site includes two office/R&D buildings with paved parking areas and landscaped areas, and a vacant lot. Runoff from the site may currently contain sediment, fertilizer, and pesticides from landscaped areas and rubbish, oils and grease from parking areas.

4.9.3 Environmental Checklist and Discussion of Impacts

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	☐	1,2
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	☐	1,2
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	☐	☐	☒	☐	☐	1,2,8

HYDROLOGY AND WATER QUALITY						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	☐	☐	☐	☒	☐	1,2,8
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	☐	1,2
6) Otherwise substantially degrade water quality?	☐	☐	☐	☒	☐	1,2,8
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	☐	1,2,18
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒	☐	1,15
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	☐	1,8,19
10) Be subject to inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1,2

4.9.3.1 *Storm Drainage Impacts*

Impervious and Pervious Surfaces

Under existing conditions, approximately 29 percent (373,402 square feet) of the site consists of impervious surfaces, and approximately 71 percent (926,789 square feet) of the site consists of pervious surfaces (landscaping/vacant lot) (refer to Table 4.9-1).

Table 4.9-1
Summary of Impervious and Pervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (s.f.)	%	Project/Post-Construction (s.f.)	%	Difference (s.f.)	%
Impervious						
Building Footprint	66,524	5%	354,771	27%	+288,247	+22
Private Streets	0	0%	93,437	7%	+ 93,437	+ 7
Parking/Private Drive (paved)	299,742	23%	348,542	27%	+ 48,800	+ 4
Sidewalks, Patios, Paths, etc.	7,136	1%	0	0%	- 7,136	- 1
Subtotal	*373,402*	*29%*	*796,750*	*61%*	*+423,348*	*+32*
Pervious						
Landscaping	926,789	71%	503,441	39%	-423,348	-32
Subtotal	*926,789*	*71%*	*503,441*	*39%*	-423,348	-32
Total	**1,300,191**	**100**	**1,300,191**	**100**		

Source: Charles W. Davidson Company Consulting Civil Engineers. Conceptual Storm Water Treatment Plan, December 2009.

With the development of the proposed project, approximately 61 percent (approximately 796,750 square feet) of the project site would be impervious and approximately 39 percent (503,441 square feet) of the site would be pervious. The proposed project would, therefore, result in an approximately 32 percent (423,348 square feet) increase in impervious surfaces on the project site which would increase the amount of runoff from the project site. The project currently proposes the use of vegetated swales and bioretention systems to treat and reduce stormwater flows from the site. With these types of improvements, the project would not result in significant drainage or runoff impacts. Upgrades and site-specific improvements to the existing storm drain lines serving the project site may be needed to serve the proposed project. The proposed project would not result in any new or more significant drainage impacts than those described in the 2005 NSJ FPEIR.

4.9.3.2 *Flooding and Dam Failure Inundation*

Redevelopment of the project site with the proposed residential and commercial land uses would not place people and housing within the 100-year flood plain. Due to the existing protections in place, dam failure is unlikely and it is not probable that the project would be impacted by dam failure. The project would not, therefore, result in any new or more significant flooding impacts than those described in the certified 2005 NSJ FPEIR.

4.9.3.3 *Water Quality*

Construction-Related Impacts

Future redevelopment of the project site under the proposed land use designations will disturb more than 10,000 square feet of the project site and will be subject to the NPDES Provision C.3 for post construction runoff. Future redevelopment projects on the site will be required to implement Best Management Practices (BMPs) to reduce non-point pollution sources. Future redevelopment will also be required to file an NOI and SWPPP for the project site prior to the start of construction.

According to the City's Hydromodification Management Plan Map, the project site is located in a subwatershed that contains less than or equal to 65 percent existing impervious surface area.[23] Due to the built out nature of these areas of the City, it is considered unlikely that redevelopment on sites less than 50 acres in size will result in increased erosion, silt pollutant generation, or other impacts to local rivers, streams, and creeks. Redevelopment on the site, however, will be required to conform to City Policy 8-14 as applicable.

Construction of the proposed project, including demolition and grading activities in the proposed General Commercial/Mixed-Use Area of the project site and completion of the ongoing hazardous materials remediation, may result in temporary impacts to surface water quality. Construction of the proposed project would result in a disturbance to the underlying soils thereby increasing the potential for sedimentation and erosion. When disturbance to underlying soils occurs, the surface runoff that flows across the site may contain sediments that are ultimately discharged into the storm drain system.

The development of the proposed project would contribute to the significant construction-related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project would not, however, result in any new or more significant construction-related water quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact HYD-1: The proposed project would result in construction-related water quality impacts. **(Significant Impact)**

Mitigation Measure: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and are proposed by the project:

MM HYD-1.1: Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to project construction or grading, the applicants shall be required to file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) that addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures typically are included in a SWPPP:

- Preclude non-stormwater discharges to the stormwater system.
- Incorporate effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
- Cover soil, equipment, and supplies that could contribute to non-visible pollution prior to rainfall events or monitor runoff.
- Perform monitoring of discharges to the stormwater system.

MM HYD-1.2: The project will comply with the City's Grading Ordinance.

[23] City of San José, Department of Planning, Building, and Code Enforcement. *Classification of Subwatersheds and Catchment Areas for Determining Applicability of HMP Requirements.* February 2010. City of San José. http://www.sanjoseca.gov/planning/stormwater/pdfs/ProposedRevisedPolicy8-14HMMap.pdf

Post-Construction Impacts

Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. Runoff from the proposed project may contain increased oil and grease from parked vehicles, as well as sediment and chemicals (i.e., fertilizers and pesticides) from landscaped areas.

The amount of pollution carried by runoff from the site would increase accordingly. The project would increase traffic and human activity on and around the project site, generating more pollutants and increasing dust, litter, and other contaminants that would be washed into the storm drain system. The project, therefore, would generate water contaminants that could be carried downstream in stormwater runoff from paved surfaces on the site.

The development of the proposed project would contribute to the significant post-construction related water quality impacts identified in the certified 2005 NSJ FPEIR. The proposed project, however, would not result in any new or more significant post-construction related water quality impacts than were described in the certified 2005 NSJ FPEIR.

Impact HYD-2: The proposed project would result in post-construction water quality impacts. **(Significant Impact)**

Mitigation Measure: The following mitigation measure is identified as part of the certified 2005 NSJ FPEIR and is proposed by the project:

MM HYD-2.1: Compliance with Council Policies 6-29 and 8-14 is required for the project. As part of the stormwater drainage design, the project currently proposes to incorporate and maintain two vegetated swales that will serve the northeastern portion of the site, drain downspouts to landscaped areas, use concrete pervious pavers on the private driveway, and use bioretention systems (e.g. Filterra Box) on streets throughout the project site.

4.9.4 Conclusion

Impact HYD-1: The proposed project, with the implementation of the mitigation measures (MM HYD-1.1 and 1.2), would not result in any new or more significant construction related water quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact HYD-2: The proposed project, with the implementation of mitigation (MM HYD-2.1), would not result in any new or more significant post-construction related water quality impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.10 LAND USE AND PLANNING

4.10.1 Existing Setting

4.10.1.1 *General Plan Policies*

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

- Balanced Community Policy #2: Construct a Variety of Housing Densities/Types.
- Residential Land Use Policy #1: Provide Adequate Services and Facilities.
- Residential Land Use Policy #3: Locate Higher Density Housing Near Employment Centers.
- Residential Land Use Policy #4: Discourage Public/Quasi-Public Uses on Land Designated for Higher Density Residential Use.
- Residential Land Use Policy #5: Mitigate Hazards to Residential Use.
- Residential Land Use Policy #11: Provide for Adequate Open Space/Recreation.
- Residential Land Use Policy #17: Residential Projects Should Address Need for Childcare Service and Facilities.
- Residential Land Use Policy #20: Maximize Energy Efficiency.
- Residential Land Use Policy #22: Appropriately Design Residential along Transit Corridors.
- Residential Land Use Policy #24: Create Pedestrian-Friendly Environment.
- Urban Design Policy #1: Apply Strong Architectural and Site Design Controls.
- Urban Design Policy #2: Private Development Should Include Adequate Landscaped Areas.
- Urban Design Policy #5: Consider Long-Term Maintenance Requirements of Private Streets and Infrastructure.
- Urban Design Policy #18: Attenuate Sound through Design and Setbacks.
- Urban Design Policy #22: Develop According to Adopted Design Guidelines.

In addition to the policies of the General Plan, future development allowed by the proposed land use designations would be required to comply with the *Residential Design Guidelines*, which includes parameters for setbacks, building design, landscaping, screening, and lighting, all of which are factors in ensuring land use compatibility and the North San José Area Development Policy.

4.10.1.2 *Existing Land Uses*

The proposed Commercial/Mixed-Use Area of the project site is currently developed with two office/R&D buildings totaling approximately 129,000 square feet and associated surface parking lots, and landscaping. The southern half of the site, and 1040 East Brokaw Road located in the northwest corner of the site were formerly used as a metals recycling facility and have been going through the process of hazardous materials remediation since 2006. These areas are currently undergoing remediation and currently consist of exposed soils with excavations ranging from one to eight feet deep and a stockpile area for the temporary storage of contaminated soils.

The perimeter of the site on the north and east sides is landscaped, and the parking areas are also planted with landscaping (refer to Figure 3.0-3).

4.10.1.3 *Surrounding Land Uses*

The project site is located in an area with a mix of land uses including office/R&D, commercial, industrial, and residential development further east and north of the site. The site is bordered by East Brokaw Road to the north, Oakland Road to the east, Coyote Creek to the south, and the Union Pacific Railroad (UPRR) tracks to the west. Office/R&D uses are located on the north side of East Brokaw Road. The west side of the UPRR tracks consists of mostly office/R&D land uses. The entrance to the San José Municipal Golf Course and a mix of commercial uses is located on the east side of Oakland Road. Industrial uses and one single-family residence are present south of Coyote Creek on Schallenberger Road.

4.10.1.4 *Land Use Plans*

General Plan Land Use Designation

A General Plan amendment (GPA) was approved on the site in December 2006 (File No. GP06-04-02), which changed the General Plan Land Use/Transportation Diagram designation on 27.4 of the 29.9-acre site from *Heavy Industrial (HI)* and *Industrial Park (IP)* to *Neighborhood/Community Commercial* and *High Density Residential (25-50 DU/AC).* The remaining 2.5 acres of the site were designated *Private Open Space* and were left unchanged by the GPA. The *Neighborhood/ Community Commercial* designation allows for shopping centers of a neighborhood or community scale. The *High Density Residential (25-50 DU/AC)* allows for development of three- to four-story apartments or condominiums over parking.

Zoning District

The project site is zoned *HI- Heavy Industrial* and *IP- Industrial Park.* The *HI – Heavy Industrial* district is intended for industrial uses with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or general welfare are best segregated from other uses. The *IP – Industrial Park* district is an exclusive zoning intended for a wide variety of industrial uses such as research and development, manufacturing, assembly, testing, and offices.

North San José Area Development Policy

The North San José Area Development Policy (NSJADP) was intended to establish a policy framework to guide ongoing development within the North San José area. The updated Policy allows for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, one million square feet of new regional commercial uses, 1,000 new hotel rooms, and 32,000 new dwelling units in North San José. A summary of the provisions of the NSJADP are listed in Table 4.10-1 below.

Table 4.10-1
Consistency with North San José Area Development Policy Residential Checklist

Provisions of the Policy	Consistent?		
	Yes	No	N/A
Land Use			
Residential development must occur on land within the Transit/ Employment Residential Overlay, on land already designated for residential use in the General Plan, or within the Industrial Core area in a mixed use configuration.	X		

Table 4.10-1
Consistency with North San José Area Development Policy Residential Checklist

Provisions of the Policy	Consistent?		
	Yes	**No**	**N/A**
Residential development within the Overlay must be at least 55 DU/AC.			X
Site must not contain an existing important vital or "driving" industrial use.	X		
Site must not be adjacent to an industrial use that would be significantly adversely impacted by the residential conversion.	X		
The site must not be in proximity to an industrial or hazardous use that would create hazardous conditions for the proposed residential development (e.g. an adequate buffer must be provided for new residential uses from existing industrial uses) in order to protect all occupants of the sites and enhance preservation of land use compatibility among sites within the Policy area. A risk assessment may be required to address compatibility issues for any proposed industrial to residential conversions.	X		
Site should be within 1,000 feet of existing park or would help establish or contribute to a new park of adequate size within 1,000 feet.	X		
Site design must support transit use and pedestrian safety.	X		
Master planning for sites for parks, schools, and other public facilities must be completed within each of the seven new residential areas prior to any proposed conversion within that area.			X
Project does not result in the conversion of industrial land not anticipated by the Policy.		X	
Traffic			
Project includes design features that encourage bicycle and pedestrian movements.	X		
Project incorporates TDM measures (see Policy list for residential projects).	X		
Project includes dedication of public street right-of-way determined necessary through or adjacent to the project site.			X
Infrastructure Improvements			
Project includes extension, expansion, or improvement of utilities or other infrastructure needed to serve the project and its immediate area, including extension of recycled water line where possible.	X		
Project includes dual plumbing to allow use of recycled water for landscaping.	X		
Allocation of Capacity			
Sufficient capacity remains within the relevant Phase to allow development of the proposed units.	X		
Design Criteria			
Project is consistent with relevant policies in the Design Guidelines.	X		
Project is consistent with Multi-modal Transportation Design Criteria in the Area Development Policy.	X		
Project incorporates Green Building techniques, resource conservation programs, and minimizes water use.	X		

4.10.1.5 *Other*

The project site is not part of a habitat conservation plan or natural community conservation plan.

4.10.2 Environmental Checklist and Discussion of Impacts

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

4.10.2.1 *Land Use Impacts*

While the specific retail uses have not yet been identified for the retail buildings in the proposed Commercial/Mixed-Use Area of the site, they will be limited to the permitted uses in the "CG" Commercial Zoning District of Title 20 of the Municipal Code and Office, Research & Development uses. Residential uses may also be permitted on this portion of the site through application of the Discretionary Alternate Use Policy for Residential Uses on Commercially Designated Parcels. All permitted uses in the R-1, R-2, and R-M Residential Zoning District of Title 20 and conditional uses as allowed by approval of the proposed Planned Development (PD) Permit could be developed in the proposed Residential Area of the site.

4.10.2.2 *Conformance with Land Use Plans*

General Plan and Zoning

The project proposes a General Plan Amendment (GPA) to change the land use designations on 27.4 acres of the site from *Neighborhood/Community Commercial* and *High Density Residential (25-50 DU/AC)* to *General Commercial* on approximately 13.7 acres of the northern portion of the site, and *Medium High Density Residential (12-25 DU/AC)* on approximately 13.7 acres of the southern portion of the site.

The proposed GPA is intended to allow general commercial and office, administrative, research and development and vertical mixed-use development, including residential, on the northern portion of the site. Residential development will be allowed in the *General Commercial* portion of the site through application of the Discretionary Alternate Use Policy for Residential Uses. The density requirement under this policy is 17 DU/AC to 65 DU/AC, and this density will be applied to the actual residential development areas and not to the entire commercial acreage.

The proposed GPA on the southern portion of the site would allow a range of residential development types including multi-story apartments and condominiums, attached and stacked townhomes and single-family detached and attached residences. The minimum average density for the Residential Area shall be 20 dwelling units per acre. The 2.5-acre area at the south end of the project site adjacent to Coyote Creek would maintain the *Private Open Space* land use designation.

Conformance of the project to the City's General Plan is dependent upon approval of the proposed GPA. With approval of the GPA, the proposed project would be consistent with the City's General Plan.

The proposed project would rezone the project site from *HI- Heavy Industrial* and *IP- Industrial Park* to *PD-Planned Development.* Conformance of the project to the City's zoning code is dependent upon approval of the proposed rezoning. With approval of the proposed PD zoning, the project would be consistent with the City's zoning code.

The project includes an approximately 2.5-acre open space/riparian area with the potential for a pedestrian trail right-of-way along the adjacent Coyote Creek and a public park adjacent to this area and Oakland Road. The open space included in the proposed project will add to open space in the City, foster a pedestrian friendly environment for the residential development, and improve the visual character of the area.

The project includes a commercial area in proximity to residential development and surrounding office/R&D buildings, which would promote economic development.

North San José Area Development Policy

Land Use

The existing *Neighborhood/Community Commercial* and *High Density Residential (25-50 DU/AC)* General Plan land use designation on the site indicates that the site is not within an exclusively industrial area and that the addition of non-industrial uses to the area would not compromise the integrity of areas reserved exclusively for industrial uses. The proposed project would allow 7.7 additional acres of commercial development on the project site than was approved in 2006 (GP06-04-02). The additional commercial development would support the anticipated jobs and population growth in North San José, including the residential development proposed in the southern half of the project site. The proposed project is generally consistent with the land use provisions described in the NSJ Area Development Policy.

Traffic

As described in *Section 4.16 Transportation*, the proposed project would not result in new significant traffic impacts beyond those identified for the NSJ Policy update. The project proposes to include design features (which include transportation demand management [TDM] measures) that encourage bicycle and pedestrian movements (refer to *Section 4.3 Air Quality*), such as sidewalks and right-of-way for the Coyote Creek Trail, and commercial uses to serve the residential portion of the project. For these reasons, the proposed project is consistent with the traffic provisions of the NSJADP.

Infrastructure Improvements

The proposed project is consistent with the NSJADP's provisions for infrastructure improvements. As discussed in *Section 4.18 Utilities and Service Systems***,** the project would connect to existing utility lines in nearby streets and upgrade them as needed. The project currently proposes several design measures and features in order to reduce natural resource and energy usage during construction and operation of the project (refer to *Section 3.3 Description of the Proposed Project*). Recycled water pipelines are located on the east side of Oakland Road at the San José Municipal Golf Course. The proposed project may be required to extend the pipeline and provide dual plumbing on the site for use in landscaping. The specific required infrastructure improvements necessary to serve the project site will be identified at the project design stage and will be finalized prior to the issuance of a PD permit on the site.

Allocation of Capacity

The NSJADP provides for the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, one million square feet of new regional commercial uses, 1,000 new hotel rooms, and 32,000 new dwelling units in North San José. In regards to allocation capacity, since the approval and certification of the NSJ FPEIR in June 2005, the City has approved projects that would use the full residential capacity available in Phase 1 under the provisions of the North San Jose Area Development Policy. Several of these approved projects have allowed their permits to expire and their allocation of residential development capacity is no longer reserved. Approximately 212 market rate and 982 affordable residential units are unreserved under Phase 1 of the NSJADP. The proposed PD zoning would allow a combination of development of up to 150,000 square feet (FAR[24] of 0.25) of retail center or other commercial uses or up to 300,000 square feet (FAR of 0.50) of office/R&D development on the Commercial/Mixed-Use Area of the site, and up to 650 residential units across the entire site. The Residential Area of the site would be developed with a minimum of 274 residential units (20 DU/AC) and up to a maximum of 342 residential units. Sufficient capacity could become available for the development of the proposed project if Planned Development (PD) permits expire for previously entitled projects.

Design Criteria

As discussed in *Section 4.1 Aesthetics*, the consistency of the proposed architecture and project design with the *Residential Design Guidelines* (as applicable) would be determined during processing of the Planned Development Permit (PD Permit) subsequent to approval of the PD zoning.

The project is consistent with the Multi-modal Transportation Design Criteria based on its extension of sidewalks along the project's Oakland Road frontage to connect the site with transit in the area, inclusion of commercial services, provision of bicycle racks, and dedication of right-of-way for the extension of the Coyote Creek Trail.

In conformance with the City of San José's Private Sector Green Building Ordinance, proposed development on the project site will meet or exceed the applicable Build It Green (BIG) or LEED standards. Development on the project site will incorporate feasible design measures which may include low-flow toilets and efficient fixtures, use of native plants, recycled construction materials,

[24] The Floor Area Ratio of a building is equivalent to the gross square footage of the building divided by the total area of the site.

and automatic shut-offs for non-essential lighting in common areas and parking lots (refer to *Section 3.3 Description of the Proposed Project*).

Based on the above discussion, the proposed project is generally consistent with the NSJADP.

4.10.2.2 *Land Use Compatibility*

Land use conflicts can arise from two basic causes: 1) conditions on or near the project site may have impacts on the persons or development introduced onto the site by the new project; or 2) a new development or land use may cause impacts to persons or the physical environment in the vicinity of the project site or elsewhere. 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.

As discussed in the certified 2005 NSJ FPEIR, developing residential uses near existing industrial uses could result in land use compatibility issues. The project site is located in an area with a mix of uses including industrial, commercial and residential and is adjacent to two major arterial roadways. The existing roadways provide substantial physical barriers between the project site and adjacent land uses to the north and east. The land use plan for the project proposes commercial/mixed-use development at the north end of the property with residential uses on the southern portion of the site.

The parcel west of the UPRR tracks is designated for light industrial use; however, it is currently developed with an office building. The office use on this parcel is unlikely to create a nuisance for future residents at the project site. Future residential development will be set back from the UPRR to reduce the impacts from noise and vibration on residents and structures proposed on the site (refer to *Section 3.6, Noise and Vibration*). The parcels across Coyote Creek, on the south side of Schallenberger Road, are designated for heavy industrial and public/quasi-public uses. Due to their distance from the site (approximately 400 feet) and a riparian zone acting as a screen, these uses are unlikely to create a nuisance for future residents of the project site.

The proposed project cannot restrict the types, quantities, or locations of hazardous materials that may be stored at, used on, or transported on and off existing, nearby industrial properties. The delivery, storage, use, and disposal of hazardous materials required for industrial uses must adhere to various local, state, and federal requirements, including the City of San José Fire Code, California Code of Regulations, and National Fire Protection Association's Flammable and Combustible Liquids Code. The existing industrial properties near the project site are either located downwind of the project site or are currently developed with office uses that are unlikely to use substantial quantities of hazardous material that would result in impacts to future residents at the site. The project site is not likely to be impacted by hazardous materials used by nearby industrial development (refer to *Section 3.4 Hazards and Hazardous Materials*).

The proposed Commercial/Mixed-Use Area would not be sensitive to the operations of the existing industrial uses in the vicinity. The proposed commercial uses would not result in significant noise, dust, or disturbance that would significantly impact other land uses in the area. The nearby industrial and commercial uses would be compatible with the proposed commercial uses on the site. The proposed project would not result in any new or more significant land use impacts than were described in the certified 2005 NSJ FPEIR.

4.10.2.3 *Other*

The project site consists of two existing office buildings. The proposed land use change on the site would not disrupt or divide an existing community. Currently, the project site is not part of a Habitat Conservation Plan (HCP) or Natural Community Conservation Plan (NCCP).

4.10.3 Conclusion

The proposed project would not result in new or more significant land use impacts than those addressed in the certified 2005 NSJ FPEIR and 2006 Fox Property GPA FEIR. **(No New Impact)**

4.11 MINERAL RESOURCES

4.11.1 Setting

The project site is not located within any designated mineral deposit area of regional significance. Mineral exploration is not performed on the project site and the site does not contain any known or designated mineral resources.

4.11.2 Environmental Checklist and Discussion of Impacts

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

As discussed above, the project is not located within a designated area containing mineral deposits of regional significance and would not result in the loss of availability of a known mineral resource. The proposed project, therefore, would not result in impacts to mineral resources.

4.11.3 Conclusion

The proposed project would not result in any impacts from the loss of availability of known mineral resources. **(No New Impact)**

4.12 NOISE AND VIBRATION

The following discussion is based upon an Environmental Noise and Ground-borne Vibration Assessment prepared by *Charles M. Salter Associates, Inc.* in March 2010. This report is included in Appendix F in this Addendum/Initial Study.

4.12.1 Setting

The ambient noise conditions and regulatory requirements regarding noise have not substantially changed since the certification of the 2005 NSJ FPEIR and 2006 Fox Property GPA FEIR.

4.12.1.1 *Existing Noise Conditions*

Ambient Noise

The project site is located at the southwest quadrant of the East Brokaw Road and Oakland Road intersection, and is located in an area with a mix of land uses including office/R&D, commercial, industrial, and residential. The nearest existing noise-sensitive receivers include a single family residence located on the south side of Schallenberger Road approximately 0.04 miles south of the project site, and a multi-family residential development located in the northeast quadrant of the Brokaw/Oakland Road intersection approximately 0.07 miles north of the project site. The major sources of environmental noise at the site include vehicular traffic on Oakland Road to the east and on Brokaw Road to the north, I-880 to the west, and freight trains on the tracks adjacent to the western site boundary. A review of the Norman Y. Mineta San José International Airport 65 CNEL noise contour map established by the Santa Clara County ALUC indicates that the project site is located outside of the future 65 CNEL noise contour.

To quantify the existing noise environment, four long-term (multi-day) and five short-term (15 minute) noise measurements were taken from January 19, 2006 to January 20, 2006, and from February 16, 2010 to February 22, 2010. The short-term measurements were compared to the long-term measurements to determine sound level variations across the site. Day-night average noise levels (DNL) in the project area range from 58 to 74 dBA[25] DNL as shown in Table 4.12-1 below. See Figure 4.12-1 for a visual of the locations of noise testing sites.

Table 4.12-1
Existing Noise Levels (DNL)

Site	Description	DNL
LT-1	Setback of 100 feet south of the Brokaw Road centerline, 40 feet east of the UPRR track	72 dBA
	Setback of 145 feet south of the Brokaw Road centerline, 30 feet east of the UPRR track	69 to 73 dBA
LT-2	Setback of 75 feet west of Oakland Road centerline	72 dBA
LT-3	Setback of 50 feet west of Oakland Road centerline	74 dBA
LT-4	Setback of 450 feet south of Brokaw Road centerline, 160 feet east of UPRR track	59 to 65 dBA
ST-1	Setback of 100 feet south of Brokaw Road centerline, 150 feet east of Oakland Road centerline	70 dBA

[25] dBA is a measurement which expresses the magnitude of a sound level and filters out some of the low and high pitches that are inaudible to the human ear.

Table 4.12-1
Existing Noise Levels (DNL)

Site	Description	DNL
ST-2	Setback of 100 feet west of Oakland Road centerline	69 dBA
ST-3	Setback of 600 feet west of Oakland Road centerline, 650 feet south of Brokaw Road centerline	58 to 60 dBA
ST-4	Setback of 300 feet east of UPRR track	59 to 62 dBA
ST-5	Setback of 60 feet east of UPRR track	60 to 66 dBA

Single-Event Noise

The project site is subject to single-event noise from rail operations along the adjacent UPRR tracks. The site is located near two at-grade rail crossings, one crossing is located at Brokaw Road and the second crossing is located at Schallenberger Road, located on the opposite side of Coyote Creek from the project site. Per the Federal Transit Administration (FTA), trains are required to sound their horn in advance of an at-grade crossing. Both northbound and southbound trains, therefore, are required to sound their horn adjacent to the project site.

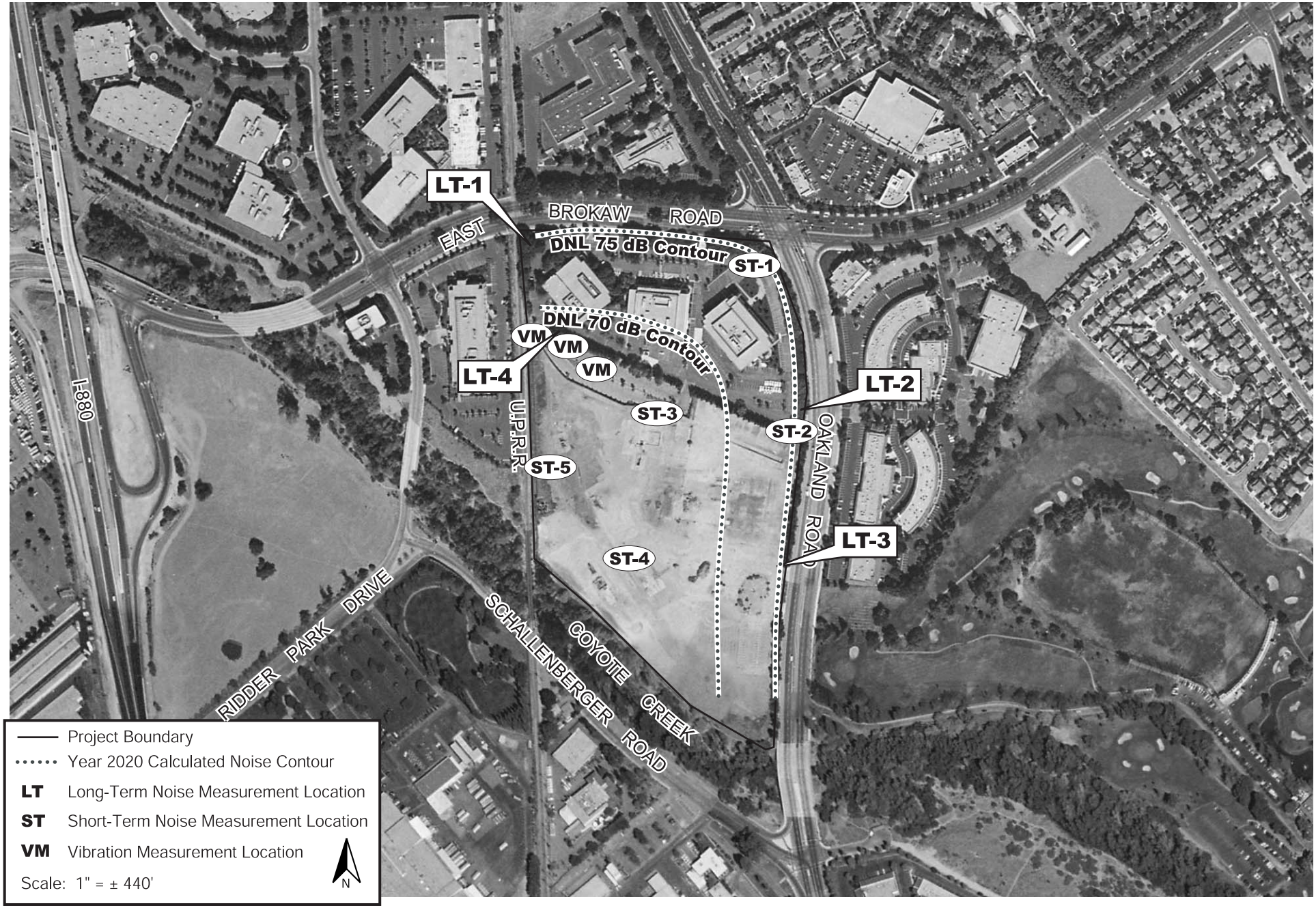
Two to three trains pass the project site each weekday between 8am and 2pm. At approximately 300 feet east of the UPRR track, the maximum noise level from the train horns was approximately 108 dBA, and 103 dBA at a distance of approximately 160 feet. Based upon calculations, noise levels from train horns could reach 115 dBA or louder along the western property line when trains blow their horns while passing the project site.

4.12.1.2 *Groundborne Vibration*

The project site is subject to groundborne vibration from rail operations along the adjacent UPRR tracks. A maximum of three freight trains were observed passing by the UPRR tracks adjacent to the western property line of the site each day. To quantify groundborne vibration at the site, train vibration measurements were taken on January 24, 2006 (refer to Figure 4.12-1). Vibration levels were recorded at distances of approximately 50 feet, 100 feet, and 200 feet from the centerline of the track. The maximum vibration level measured at 50-feet from the track was 77 VdB.[26] Maximum vibration levels at 100 feet and 200 feet from the centerline of the track were 75 VdB and 71 VdB, respectively.

Vibration measurements were conducted at a time when maintenance work was observed on the tracks in the project vicinity, causing trains to slow to 15 MPH when passing the project site. The estimated maximum vibration levels at 30 MPH would have been approximately 83 VdB at 50 feet from the track, and 81 VdB and 77 Vdb at 100 and 200 feet from the track, respectively.

[26] VdB is a measurement which expresses the magnitude of vibration.



NOISE AND VIBRATION MEASUREMENT LOCATIONS FIGURE 4.12-1

4.12.3 Environmental Checklist and Discussion of Impacts

NOISE	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project result in:						
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐	1,2,3, 8,20
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐	1,2,3, 8,20
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1,2,3, 8,20
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1,2,3, 8,20
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1,2,3
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1,2,3

4.12.3.1 *Noise Impact Standards and Policies*

While CEQA does not specifically define what noise level increase is considered significant, generally in high noise environments a project is considered to have a significant impact if the project would substantially and permanently increase existing noise levels by more than three (3) dBA (which is the minimum increase generally perceptible by the human ear) or would cause noise levels to exceed established City guidelines. Where the existing noise level is lower, a somewhat higher increase (i.e., five dBA) can be tolerated before the impact is considered significant. The noise standards and policies discussed below were used to evaluate the significance of noise impacts.

City of San José General Plan

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating noise impacts resulting from planned development within the City. All future

development allowed by the proposed land use designations shall be subject to the noise policies and urban design policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Noise Policy #1: The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. To achieve the noise objectives, the City should require appropriate site and building design, building construction, and noise attenuation techniques in new development.

- Noise Policy #8: The City should discourage the use of outdoor appliances, air conditioners, and other consumer products which generate noise levels in excess of the City's exterior noise level guidelines.

- Noise Policy #9: Construction operations should use available noise suppression devices and techniques.

- Noise Policy #11**:** When located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses, non-residential land uses should mitigate noise generation to meet the 55 DNL guideline at the property line.

- Noise Policy #12: Noise studies should be required for land use proposals where known or suspected peak event noise sources occur which may impact adjacent existing or planned land uses.

- Urban Design Policy #18: To the extent feasible, sound attenuation for development along City streets should be accomplished through the use of landscaping, setback, and building design rather than the use of sound attenuation walls. Where sound attenuation walls are deemed necessary, landscaping, and an aesthetically pleasing design shall be used to minimize visual impact.

- Urban Design Policy #21: To promote safety and to minimize noise impacts in residential and working environments, development which is proposed adjacent to railroad lines should be designed to provide the maximum separation between the rail line and dwelling units, yards or common open space areas, offices and other job locations, facilities for the storage of toxic or explosive materials and the like. To the extent possible, areas of development closest to an adjacent railroad line should be devoted to parking lots, public streets, peripheral landscaping, the storage of non-hazardous materials and so forth.

Table 4.12-2
San José General Plan Land Use Compatibility Guidelines for Community Noise

DNL Values in Decibels		Compatibility Level
Residential, Parks, & Playgrounds	**Commercial**	
60 dB or less		Satisfactory
60 to 70 dB	60 to 76 dB	When new development requires a full EIR, an acoustical analysis should be made indicating the amount of attenuation necessary to maintain an indoor level of DNL <=45. Onsite outdoor activity limited to acoustically protected areas. Existing uses should receive remedial treatment.
Greater than 70 dB	Greater than 76 dB	New development permitted only if entirely indoors and building design limits interior levels to <=45 DNL. Onsite activity areas should be permitted if site planning and noise barriers can achieve levels of 60 DNL or less. Existing uses have top priority for remedial treatment.

City of San José Municipal Code

The Zoning Ordinance of the San José Municipal Code contains performance standards for the generation of noise at adjacent properties. Noise from air-conditioning or other mechanical equipment is limited to a maximum of 55 dBA at residential property lines, and 60 dBA at the commercial property line.

California Building Code

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

Federal Transit Administration

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

Single Event Noise Levels

The State of California and the City of San José have no specific regulations for short-term interior noise levels from outdoor sources such as trains or traffic. Cities that regulate single-event noise typically use a maximum instantaneous interior noise level of 50 dBA in bedrooms and 55 dBA in

other rooms. Because of the potential effects of single-event noise on sleep and the location of the site adjacent to an existing rail line, the single-event threshold used by other cities will be applied as a threshold for this noise analysis.

4.12.3.2 *Noise Impacts from the Project*

On-Site Project Operational Noise

The primary noise sources associated with the operation of retail uses on the project site are anticipated to be parking lot activities, loading dock activities, truck circulation, and mechanical equipment. Each of these is described below.

Parking Lot Activities

Noise associated with the use of the retail parking lots would include vehicular circulation, engines, car alarms, squealing tires, door slams, and human voices. The hourly average noise level resulting from all of these noise-generating activities in a busy parking lot typically ranges from 40 dBA to 50 dBA L_{eq} at a distance of 100 feet from the parking area. The project proposes a mixed-use area in the northern portion of the project site, and residential development in this area would be exposed to noise associated with the operation of the retail uses. Noise from parking lot activities may not be audible above traffic noise levels on Brokaw Road, which generates a day-night noise level of approximately 74 dBA.

Truck Delivery and Loading Dock Operations

Truck deliveries would be anticipated for all of the retail commercial uses which are proposed in the northern portion of the project site. Receiving hours for deliveries are generally between 7:00 AM and 4:00 PM. Goods would typically be delivered to small retail shops by medium-sized trucks, which typically generate L_{max} noise levels of about 60 to 65 dBA at 50 feet. Heavy duty trucks typically generate L_{max} noise levels of about 70 to 75 dBA at 50 feet. Backup beepers vary depending on the truck and directivity of the sound, but maximum noise levels are typically in the range of 65 to 75 dBA L_{max} at a distance of 50 feet. Due to the character of the loading dock sounds (backup alarms, etc), maximum noise levels from on-site delivery truck circulation and loading dock activities could occasionally be audible at residential development in the mixed-use area of the project site. The project would not, however, significantly increase hourly or day-night average noise levels in the area.

Mechanical Equipment

It is anticipated that most of the retail uses would include rooftop heating, ventilation, and air-conditioning units on top of the buildings. The project also may incorporate a mechanical treatment device for storm water drainage.

Impact NV-1: The proposed project would include residential development in a mixed-use configuration with and adjacent to commercial uses that may generate operational noise at residences that exceed the requirements of the Zoning Ordinance and General Plan. **(Significant Impact)**

Mitigation Measures: The following mitigation measure will reduce noise impacts from commercial operations on the site:

MM NV-1.1: Select and locate equipment and loading docks/delivery areas to meet the noise level limits outlined in the Zoning Ordinance and General Plan. If needed, mitigation measures may include equipment enclosures, acoustical louvers, and/or equipment noise attenuators and soundwalls. Details must be determined when specific building locations are known and equipment is selected and located during the design phase of the project. A design-level acoustical analysis will be required prior to the issuance of a PD Permit.

Project-Generated Traffic Noise Impacts

For traffic noise to increase noticeably (minimum of three dBA increase), existing traffic volumes typically must double. The proposed project would generate an additional 258 to 369 peak-hour vehicle trips into and out-of the project site. While the additional traffic could slightly increase traffic volumes on roadways and arterials in the project area, it is not anticipated that the traffic volumes on roadways would double on any roadway in the vicinity as a result of traffic generated from future development. The additional traffic would increase noise levels by less than one-decibel and, therefore, would not result in a significant impact.

Short-Term Construction Noise

Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generating activities, and the distance between construction noise sources and noise sensitive receptors. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise sensitive land uses, or when construction lasts over extended periods of time. Noise generated by construction would be the greatest during site grading activities and excavation for underground utilities. Demolition of the existing buildings and construction of the proposed general commercial and residential uses would temporarily increase noise levels at adjacent land uses. There are no noise sensitive land uses directly adjacent to the project site; however, residential uses are located south of the project site. The construction of the project may substantially exceed the ambient noise environment at sensitive land uses near the project site for more than one construction season.

Impact NV-2: The proposed project would result in a significant short-term increase in noise levels at sensitive land uses in the project area during demolition and construction activities. **(Significant Impact)**

Mitigation Measures: The following standard mitigation measures will be required to reduce project construction noise impacts:

MM NV-2.1: Noise-generating construction activities shall be limited to the hours between 7:00 AM and 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.

MM NV-2.2: The contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used

on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

MM NV-2.3: Stage construction equipment a minimum of 200 feet from noise sensitive receptors.

MM NV-2.4: Prohibit unnecessary idling of internal combustion engines.

MM NV-2.5: Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

4.12.3.3 *Noise Impacts to the Project*

Exterior Noise Levels

The estimated future day-night noise levels at the site range from 76 dBA DNL in the northeastern corner of the site adjacent to Brokaw Road and Oakland Road to 64 dBA or lower in the southern portion of the site nearest to Coyote Creek. Noise levels on the western portion of the site will vary based upon the location and frequency of trains blowing their horns. The General Plan guidelines identify exterior noise levels of up to 60 dBA DNL as satisfactory for residential and commercial uses.

The San José General Plan specifically recognizes that noise goals may not be achieved within the timeframe of the General Plan at certain areas of the City, which are affected by noise from aircraft and major roadway traffic. These areas include: 1) the Downtown Core Area, 2) the area around Norman Y. Mineta San José International Airport (SJIA), and 3) areas adjacent to major roadways. The proposed general commercial and residential development would be exposed to noise levels above satisfactory levels.

Impact NV-3: The proposed development would be exposed to ambient noise levels greater than 60 dBA DNL on the site, which exceeds the noise and land use compatibility standards in the City of San José's General Plan. **(Significant Impact)**

Mitigation Measures: The following standard mitigation measures will be required to reduce project exterior noise impacts on the site:

MM NV-3.1: Future noise levels interior to the site will depend on the amount of acoustical shielding provided by new buildings. Estimated future noise levels shall be evaluated in detail when the site plan is developed and used as a basis for designing noise barriers to reduce exterior noise to acceptable levels for residential use. The site specific, design-level acoustical analysis shall be completed to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to the issuance of a PD Permit(s). Noise levels on the site

can be reduced with construction of a solid barrier, natural berm, or combination of both along Oakland Road.

MM NV-3.2: To the extent feasible, common outdoor use areas shall be located between buildings to shield these areas from traffic noise.

Interior Noise Levels

The estimated future day-night noise levels at the site range from 76 dBA DNL in the northeastern corner of the site adjacent to Brokaw Road and Oakland Road to 64 dBA DNL or lower in the southern portion of the site nearest to Coyote Creek. Typical residential construction with windows open provides approximately 15 dBA of sound attenuation from exterior noise, and residential construction with windows closed provides about 25 dBA of sound attenuation from exterior noise.

Impact NV-4: Interior noise levels in future residential and commercial areas on the site would exceed 45 dBA without the incorporation of noise attenuation features. **(Significant Impact)**

Mitigation Measures: The following standard mitigation measures will be required to reduce project interior noise impacts:

MM NV-4.1: Use sound rated windows, doors and exterior wall assemblies in commercial buildings to reduce interior noise to the General Plan noise goal of 45 dBA DNL or lower. Specific ratings shall be determined as part of the design-level acoustical analysis based on building locations and orientations, room sizes, and window sizes.

MM NV-4.2: Sound-rated windows, doors, and exterior wall assemblies in residences will be required for future development on the site to reduce interior noise from exterior sources to the day-night noise level 45 dBA criterion. Preliminary estimates of window and door Sound Transmission Class (STC) ratings need to achieve an interior day-night noise level of 45 dBA suggest that sound insulation ratings in the range of STC 35 to 37 may be needed in units along Oakland Road. In the interior shielded portions of the site, typical dual-pane construction-grade windows, without specific higher STC ratings, may be adequate reduce interior noise levels to acceptable levels. The exact required STC ratings will be determined as part of the design-level acoustical analysis of specific development proposed on the site.

MM NV-4.3: Attached residential development at the project site will be required to have ventilation or an air-conditioning system to provide a habitable interior environment with the windows closed. The system must not compromise noise insulation of exterior wall assemblies.

Single-Event Noise

Single-event noise levels from train horns at the project site were measured at 108 dBA at a distance of 30 feet from the UPRR tracks and 103 dBA at a distance of 160 feet from the tracks and could be 115 dBA, or louder, along the western property line if trains blow their horns while passing the site. Indoor noise levels from individual trains would be clearly audible in residential buildings near the

railroad tracks. Although the City does not have a single-event, or L_{max}, noise goal, the existing single-event noise levels exceeding 90 dBA would exceed the maximum instantaneous interior noise levels (L_{max}) of 50 dBA in bedrooms and 55 dBA in other rooms identified in City's that regulate single-event noise with the use of standard noise reduction techniques to meet the 45 dBA DNL criterion.

Impact NV-5: Residential units that face the railroad tracks with exterior shells designed to reduce interior noise levels to below 45 dBA would still be exposed to L_{max} noise levels that exceed 90dBA from passing trains. **(Significant Impact)**

Mitigation Measure: The following mitigation measure will be required of any development on the site to reduce impacts from single-event noise levels to a less-than-significant level:

MM NV-5.1: Depending on the location and exposure to the UPRR track, shell assemblies of residential buildings may need to include double-stud exterior walls with added layers of gypsum board, and windows with sound insulation ratings in the range of STC 44 to 50 or higher. Noise barriers could also be used to reduce noise levels for ground floor receivers, although the barriers would have little or no effect for second-floor units and above in podium buildings. Specific achievable and measurable noise goals and noise reduction measures shall be developed during the design phase to achieve maximum single-event noise levels of 50 dBA in sleeping rooms and 55 dBA in other living spaces. These measures will be reviewed and approved by the Director of Planning, Building, and Code Enforcement prior to the issuance of a PD permit(s).

MM NV-5.2: Units shall be arranged so that the least noise-sensitive spaces are located closest to the railroad tracks. Kitchens, living rooms, closets, and bathrooms located on the railroad side of buildings proposed near the UPRR tracks, would provide a buffer for more sensitive spaces such as bedrooms. Bedrooms should be located to avoid a direct line-of-sight to the UPRR tracks.

MM NV-5.3: Prospective residents shall be advised in disclosure and/or lease documents of the presence of high noise levels on the site due to train passbys.

4.12.3.4 *Vibration Impacts to the Project*

As described above, two to three trains passed the project site each day during the noise measurement period. Vibration measurements were conducted at a time when maintenance work was observed on the tracks in the project vicinity.

The project proposes a setback of ten feet from the UPRR right-of-way or approximately 40 feet from the UPRR track. The estimated vibration level at this distance is 78 VdB if trains travel 15 miles per hour (MPH), or 84 VdB if trains travel 30 MPH. Vibration from trains traveling at the faster speed would be expected to exceed the 80 VdB FTA guideline for infrequent events in residential buildings. At the slower speed, vibration would not exceed the guideline, but vibration would still be perceptible from the nearest residences.

Impact NV-6: The estimated vibration level generated from trains on the UPRR tracks would exceed the FTA guideline for infrequent events. **(Significant Impact)**

Mitigation Measure: The following mitigation measure will be required of any development on the site to reduce impacts from vibration to a less-than-significant level:

MM NV-6.1: Reasonable measures should be taken to stiffen the residential structures. For example, deeper and stiffer joists than would otherwise be used, joists should be spaced more closely than normal, and the span of unsupported floor joists should be limited to a maximum of 15-feet. These measures would reduce the potential for amplification of vibration by increasing the natural frequency of the floors. A structural engineer shall be consulted regarding the feasibility of these measures.

MM NV-6.2: Establish appropriate setbacks of residences from the UPRR right-of-way, potentially by locating parking, common space, commercial buildings, etc., in this portion of the site. A setback of approximately 120 feet from the UPRR track, or 90 feet from the UPRR right-of-way, would reduce interpolated levels from a train traveling at 30 miles per hour to the FTA guideline (less than 80 VdB for infrequent events) at the nearest residences without the use of structural mitigation measures.

MM NV-6.3: Additional ground-borne vibration measurements shall be conducted at the site during the design phase and prior to the issuance of a PD Permit(s) to ensure that the proposed building locations would not be subject to vibration levels exceeding FTA guidelines.

4.12.4 Conclusion

Impact NV-1: The proposed project, with the implementation of mitigation (MM NV-1.1), would ensure operational noise from commercial uses is reduced to a level compatible with adjacent residential development on the site. **(No New Impact)**

Impact NV-2: The proposed project, with the implementation of mitigation measures (MM NV-2.1 to MM NV-2.5), would reduce short-term demolition and construction noise to a less than significant level. **(No New Impact)**

Impact NV-3: The proposed project, with the implementation of mitigation measures (MM NV-3.1 and MM NV-3.2), would reduce noise impacts to exterior open space to a less than significant level. **(No New Impact)**

Impact NV-4: The proposed project, with the implementation of mitigation measures (MM NV-4.1 to MM NV-4.3), would reduce interior noise levels in future buildings on the site to 45 dBA DNL. **(No New Impact)**

Impact NV-5: Residential units that face the railroad tracks with exterior shells designed to reduce interior noise levels to below 45 dBA would still be exposed to L_{max} noise levels that exceed 90dBA from passing trains. Implementation of mitigation measures (MM NV-5.1 to MM NV-5.3) would reduce impacts from single-event noise to a less than significant level. **(No New Impact)**

Impact NV-6: The proposed project, with implementation of mitigation measures (MM NV-6.1 to MM NV-6.3), would reduce impacts to the proposed residences to a less than significant level. **(No New Impact)**

The proposed project would conform to applicable General Plan policies and the mitigation measures identified above, and would not result in any new or more significant noise and vibration impacts than those previously addressed in the certified 2005 NSJ FPEIR and the 2006 Fox Property GPA FEIR.

4.13 POPULATION AND HOUSING

4.13.1 Existing Setting

Development of the proposed project site was originally analyzed in the 2005 NSJ FPEIR as part of the North San José Area Development Policy. Historically, San José has had a shortage of jobs compared to the number of employed residents living in the City, commonly referred to as a "jobs/housing imbalance." A jobs/housing imbalance, especially when there is a relative deficit of jobs, can be problematic because it results in longer commutes as City residents travel to other locales for employment. This imbalance is typically characterized by the jobs to employed residents ratio. This imbalance might result in financial hardships for a city due to the costs associated with providing services to residential land uses in relation to revenue generated.

In recent years, consistent with the major strategies and objectives of the adopted General Plan, the City has been attempting to correct this imbalance. The City's current jobs/employed resident ratio is 0.8 jobs per employed resident.[27] The City is in the process of adopting General Plan policies that would, if implemented, improve the overall jobs/housing imbalance. Build out of the City's current General Plan would have a jobs/employed resident ratio of approximately 1.1 jobs per employed resident.[28] Assuming there are 1.5 employed residents per dwelling unit, buildout of the City's current General Plan would result in 1.06 jobs per employed resident.[29]

4.13.2 Environmental Checklist and Discussion of Impacts

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

[27] This is based on a total of 369,450 jobs and 309,350 dwelling units. There are approximately 1.5 employed residents per household.
[28] This is based on 625,000 jobs and 391,460 dwelling units.
[29] Jobs/employed resident ratio was calculated based upon memorandum prepared for the Envision San José 2040 General Plan Update Task Force which can be accessed at: http://www.sanjoseca.gov/planning/gp_update/documents/Scenario_Analysis_Summary_Memo.pdf Accessed July 2010.

The 2006 Fox Property General Plan Amendment proposed 1,070 residential units on the project site. The proposed project would allow a maximum of 650 residential units across the entire project site. The project would also allow development of up to 150,000 square feet of neighborhood serving retail or up to 300,000 square feet of office development on the northern Commercial/Mixed-Use Area of the site, or a combination of these uses.

The project would be a part of the total residential and commercial build out which was analyzed in the 2005 NSJ FPEIR. The project would not result in any new or more significant population growth and/or housing impacts than were described in the certified 2005 NSJ FPEIR.

4.13.3 Conclusion

The proposed project would not result in any new or more significant population growth or housing impacts than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.14 PUBLIC SERVICES

4.14.1 Existing Setting

4.14.1.1 *State Law and City Ordinances*

All future development allowed by the proposed land use designation changes will be subject to the following State law and City ordinances that offset the demand created by residential development upon schools and parkland, respectively:

- State law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school impacts under the Government Code, including setting the school impact fee amount consistent with state law.

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

4.14.1.2 *General Plan Policies*

In addition to the above State law and City ordinances, various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating impacts to public services resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to applicable policies listed in Chapter 4, Goals and Policies, of the City's General Plan, regarding public services including the following:

- Level of Service Policy #2: New Development Should Finance New Capital and Facility Needs.
- Level of Service Policy #16: Utilize City's LOS Benchmarks in Evaluating Residential Conversions.
- Schools Policy #22: City and School District to Identify School Facility Needs.
- Fire Hazards Policy #2: Development Should Incorporate Fire Safety Standards from the City's Building Code.
- Fire Hazards Policy #6: Development Should Provide Adequate Access for Emergency Vehicles.
- Parks and Recreation Policy #1: Provide Park Facilities within Walking Distance for Residents.
- Parks and Recreation Policy #3: Encourage Open Space and Recreational Facilities in Residential Development.
- Parks and Recreation Policy #16: Use PDO/PIO for Park Improvements.

4.14.1.3 *Fire Service*

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The Fire Department currently consists of 35 fire stations serving an area of 205 square miles and

1,006,892 residents. The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the project area.

Station No. 5 is the closest station to the project site and would be the "first response unit" to respond to an emergency at the project site. Station No. 5 is located at 1380 North Tenth Street, approximately one mile south of the project site. Station No. 23 is the "second response unit" to respond to the site in the event of an emergency. Station No. 23 is located approximately 1.5 miles northeast of the project site at 1771 Via Cinco de Mayo. The emergency response time goal of the SJFD is four minutes for all calls.

In the 2007-2008 fiscal year, Station No. 5 responded to 1,917 calls including 1,421 medical, 147 fire, and 349 other emergencies. During the same time period, Station No. 23 responded to 1,244 calls including 1,027 medical, 74 fire, and 143 other emergencies.[30]

4.14.1.4 *Police Service*

Police protection services are provided to the project site by the City of San José Police Department (SJPD). The SJPD has more than 1,300 sworn officers. Officers patrolling the project area are dispatched from police headquarters, located at 201 West Mission Street.

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).[31] The project site is located in BBB 404. From February 2009 to February 2010, the most frequent calls for service in the area were for vehicle stops, disturbances, and alarms. The response time goals for the SJPD is six minutes or less for 60 percent of all Priority 1 calls, and eleven minutes or less for 60 percent of all Priority 2 calls.

4.14.1.5 *Schools*

The City of San José is served by a total of 19 public school districts, serving elementary, middle, and high school students. Thirteen of these districts are elementary school districts, three are high school districts and three are unified school districts.[32] The project site is located within the boundaries of the Orchard School District and East Side Union High School District (ESUHSD).

4.14.1.6 *Parks*

The City of San José manages approximately 3,500 acres of regional and neighborhood parkland.[33] The City provides developed parklands, open space, and community facilities to serve its residents. Park and recreation facilities vary in size, use, type of service, and provide for neighborhood, citywide, and regional uses. The City's Departments of Parks, Recreation and Neighborhood Services, General Services, and Public Works are responsible for the design, construction, operation, and maintenance of all City parks and recreational facilities.

[30] City of San José Fire Department. SJFD Response by Station Fiscal Year 2007-2008. http://www.sjfd.org/Stats/0708Station.asp
[31] City of San José Police Department. Public CADmine FAQ's. City of San José. 2006. http://www.sjpd.org/PoliceDataFAQ.cfm
[32] Santa Clara County Office of Education, 2009. Accessed February 11, 2010 at: http://www.sanjoseca.gov/planning/factsheet/education.asp
[33] City of San José. *Greenprint Update 2009*. Accessed at: http://www.sjparks.org/Greenprint/gp2009/docs/Chapter%201%20-%20Introduction.pdf. February 11, 2010.

The project site is located approximately 0.5 miles west of Townsend Park, approximately 0.5 miles southwest of the new Lundy/McKay turnkey park, and approximately 2.5 miles northwest of Overfelt Gardens Regional Park.

4.14.1.7 *Libraries*

The San José Public Library system consists of one main library and 21 branch libraries, 19 of which are open. The Dr. Martin Luther King Junior Main Library, which reopened in Fall 2003 as a joint San José State University Library and San José Public Library, is located at the corner of San Fernando and Fourth Streets, in downtown San José approximately three miles south of the project site. The Educational Park Branch is located approximately 2 miles southeast of the project site. This branch is the closest library to the project site and will open to the public in 2011 after expansion of the facility is complete.

4.14.2 Environmental Checklist and Discussion of Impacts

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

4.14.2.1 *Fire and Police Service*

The project would be constructed in conformance with current codes, including features that would reduce potential fire hazards. The project design would also be reviewed by the SJPD to ensure that it incorporates appropriate safety features to minimize criminal activity.

As discussed in the certified 2005 NSJ FPEIR, the buildout of the development analyzed would incrementally increase the need for fire and police protection services, which may create the need for additional staffing or resources, or a new fire station in the project area. The increase in demand for fire and police services is not necessarily an environmental impact. The environmental impact, if it does occur, would generally result from the impacts on the physical environment that result from the

physical changes made in order to meet the demand. Future development of new fire facilities in the project area would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR. It was concluded in the certified 2005 NSJ FPEIR that the construction of a new fire station in North San José would not have significant adverse environmental impacts.

Given the infill location of the project site and the fact that the site is already served by the SJFD and SJPD, it is not anticipated the development of the proposed project would result in significant impacts to police and fire services nor would this project alone require the construction of additional fire or police facilities. Furthermore, the proposed project would not result in any new or more significant impacts to fire and police service than were described in the certified 2005 NSJ FPEIR.

4.14.2.2 *Schools*

It was estimated that the buildout of the development assumed in the certified 2005 NSJ FPEIR would result in a total of approximately 1,583 new students for the Orchard School District and approximately 566 high school students for the East Side Union High School District (ESUHSD). It was concluded in the certified 2005 NSJ FPEIR that the total number of students generated from the development assumed would require the construction of approximately two new elementary schools to accommodate the growth in student population in the Orchard School District and that the ESUHSD would be able to accommodate the high school students from the North San José Area Development Policies Update without requiring the construction of new facilities.

The certified NSJ FPEIR concluded that the construction of new school in North San José would not result in significant environmental impacts. Future development of new school facilities would, however, require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR. There are also specific requirements set by the state for constructing a new school that would have to be met.

Based upon the most recent student generation rates available for the Orchard School District,[34] the project would result in approximately 110 K-8 students.[35] Based on student generation rates provided by the East Side Union High School District,[36] the project would result in 130 high school students.[37] The proposed project would generate approximately eleven percent of the total students anticipated from the buildout of the development within these districts assumed in the certified 2005 NSJ FPEIR. The project, therefore, would not result in any new or more significant school impacts than were described in the certified 2005 NSJ FPEIR.

State Law (Government Code Section 65996) specifies an acceptable method of offsetting a project's effect under CEQA on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The affected school district(s) are responsible for implementing the specific methods for mitigating school effects under the Government Code, including setting the school impact fee amount consistent with state law. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would partially offset project-related increases in student enrollment. The proposed project would increase the number of

[34] Leung, Anna. Business Manager, Orchard School District. Email Communication. February 24, 2010.
[35] Based on student generation rates of 0.13 elementary students per residential unit and 0.04 middle school students per residential unit.
[36] Garofalo, Alan. Assistant Superintendent of Operations, East Side Union High School District. Email Communication. May 14, 2007.
[37] Based on student generation rates of 0.2 high school students per residential unit.

school children attending public schools in the project area, but would mitigate its impact through compliance with state law regarding school mitigation.

Standard Measure: The project shall implement the following standard measure:

SM PS-1 In accordance with Government Code 65996, the developer shall pay the statutory school impact fee to offset the increased demands on school facilities caused by the proposed project.

4.14.2.3 *Parks*

The City of San José has adopted the *Parkland Dedication Ordinance (PDO)* (Municipal Code Chapter 19.38) and *Park Impact Ordinance (PIO)* requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the *Parkland Dedication Ordinance.* Based upon this formula, full build-out of 650 units at the project site would require dedication of approximately 4.47 acres of parkland.[38] With minimum build-out of the proposed project area with 274 dwelling units, the project would be required to dedicate 1.88 acres of parkland. The project will be required to conform to the City's *Parkland Dedication Ordinance* and will pay in-lieu fees to the City that would be used for park facilities in the project vicinity for any required parkland not located on-site.

It is anticipated that the buildout of the development evaluated in the certified 2005 NSJ FPEIR would result in the incremental increase in the need for parks and recreational facilities, which are to be developed in the project area concurrently with the proposed residential development. It was concluded in the certified 2005 NSJ FPEIR that the development of new parks and recreation facilities in the project area would not result in significant adverse environmental impacts. Future development of new park and recreation facilities in the project area would, however, require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

Standard Measure: The project proposes to implement the following standard measures:

SM PS-2: The project shall conform to the City's *Park Impact Ordinance* (PIO) and *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38).

4.14.2.4 *Libraries*

The San José Public Library System is currently expanding with funds from a bond measure passed by voters in November 2000. The bond measure would provide for the construction of six new branch libraries and the expansion of 14 existing branch libraries.[39]

It is anticipated that the buildout of the development evaluated in the 2005 NSJ FPEIR would result in the incremental increase in the need for library facilities. It was concluded in the certified 2005 NSJ FPEIR that the possible development of new library facilities in the project area would not result

[38] Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household). Proposed project = (0.003 acres) x (up to 650 units) x (2.29 persons per household) = approximately 4.47 acres.
[39] San José Public Library. *Bond Projects for Branch Libraries*. Accessed February 12, 2010 at: http://www.sjlibrary.org/about/sjpl/bond/index.htm.

in significant adverse environmental impacts. Future development of new library facilities in the project area, however, would require supplemental environmental review which could consist of an Addendum or Supplemental EIR to the certified 2005 NSJ FPEIR.

Since the proposed project would result in up to approximately two percent of the residential development assumed in the 2005 NSJ FPEIR, the proposed project would not result in any new or more significant library impacts than were described in the certified 2005 NSJ FPEIR.

4.14.3 Conclusion

The proposed project, with the implementation of the above standard measures would not result in any new or more significant impacts to public services or facilities than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.15 RECREATION

4.15.1 Existing Setting

4.15.1.1 *General Plan Policies*

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating recreation impacts resulting from planned development within the City. All future development allowed by the proposed project would be subject to the recreation-related policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

- Parks and Recreation Policy #1: Provide Park Facilities within Walking Distance for Residents.
- Parks and Recreation Policy #3: Encourage Open Space and Recreational Facilities in Residential Development.
- Parks and Recreation Policy #16: Use PDO/PIO for Park Improvements.

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

4.15.1.2 *Existing Recreational Facilities*

The project site is located directly across Oakland Road from North Coyote Park, approximately 0.5 miles west of Townsend Park, approximately 0.5 miles southwest of the new Lundy/McKay turnkey park, and approximately 2.5 miles northwest of Overfelt Gardens Regional Park. In the vicinity of the site, the City of San José Trail Network Map[40] provides general alignment information for a trail corridor adjacent to Coyote Creek. The complete precise future trail alignment will be determined through the formal master planning process.

According to the City of San José Transportation Bicycle Network (TBN) and the Santa Clara Valley Transportation Authority (VTA) Bikeways Map, bike lanes exist on Brokaw Road from SR 87 to Capitol Avenue and Oakland Road from West Calaveras Boulevard in Milpitas to Old Bayshore Highway in San José

[40] City of San José, Department of Parks and Recreation. *Trail Program.* Map. June 2006. <http://www.sjparks.org/Trails/documents/CityTrailsMap_All.pdf>

4.15.2 Environmental Checklist and Discussion of Impacts

RECREATION						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project: 1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒	☐	1,2
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐	1,2

As discussed in *Section 4.13 Public Services*, the City of San José has adopted the PDO and PIO requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the *Parkland Dedication Ordinance.*[41] Based upon this formula, full build-out of 650 units at the project site would require dedication of approximately 4.47 acres of parkland. With minimum build-out of the proposed project area with 274 dwelling units, the project would be required to dedicate 1.88 acres of parkland. The project will be required to conform to the City's *Parkland Dedication Ordinance* and will pay in-lieu fees to the City that would be used for park facilities in the project vicinity for any required parkland not located on-site.

As concluded in the certified 2005 NSJ FPEIR, the buildout of the development assumed would not result in significant, adverse park and recreation impacts. Since the project proposes a maximum of approximately two percent of the residential development assumed in the certified 2005 NSJ FPEIR, the proposed project would not result in any new or more significant recreation impacts than were described in the certified 2005 NSJ FPEIR.

Standard Measures: The project proposes to implement the following standard measures:

SM REC-1: The project shall conform to the City's *Park Impact Ordinance* (PIO) and *Parkland Dedication Ordinance* (PDO) (Municipal Code Chapter 19.38).

4.15.3 Conclusion

The proposed project, with implementation of the above standard measure, would not result in new or more significant impacts to recreational facilities than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

[41]Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household). Proposed project = (0.003 acres) x (up to 650 units) x (2.29 persons per household) = approximately 4.47 acres.

4.16 TRANSPORTATION

The following discussion is based on a Supplemental Traffic Analysis prepared by *Hexagon Transportation Consultants* in June 2010. A copy of this report is included in Appendix G of this Initial Study.

4.16.1 Introduction

4.16.1.1 *General Plan Policies*

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

- Level of Service Policy #5: Maintain Specified Levels of Service.
- Transportation Policy #1: Interneighborhood Movement on Thoroughfares.
- Transportation Policy #3: Provide Right-of-Way Dedication and Improvements as Development Occurs.
- Transportation Policy #8: Design Streets and Roadways to Provide for Vehicular, Bicycle, and Pedestrian Safety.
- Transportation Policy #9: Discourage Through Traffic on Neighborhood Streets.
- Transportation Policy #11: Provide Public Transit.
- Transportation Policy #16: Encourage Pedestrian Travel by Providing Pedestrian Facilities.
- Transportation Policy #51: Develop a Safe & Direct Bicycle Network.
- Transportation Policy #52: Consider Bike Lanes with Street Improvement Projects.
- Transportation Policy #53: Priority Improvements to the Transportation Bicycle Network.

In addition to the policies of the San José General Plan, future development allowed by the proposed land use designations would be required to comply with the San José *Residential Design Guidelines*.

4.16.2 Existing Setting

The transportation system in the project area, including regional and local roadways, bicycle and pedestrian facilities, and existing transit services (i.e., bus and light rail services) has not substantially changed since the certification of the 2005 NSJ FPEIR.

4.16.2.1 *Existing Roadway Network*

Regional access to the site is provided by Interstate 880 (I-880) and US 101, which are described below.

I-880 is a six-lane freeway in the vicinity of the site. It extends northeast to Oakland and south to I-280 in San José, at which point it becomes State Route (SR) 17 to Santa Cruz. Access to the site is provided via its interchanges with US 101, Old Bayshore Highway, and Brokaw Road.

US 101 is an eight-lane freeway with three mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction near the project site. US 101 extends northward through San Francisco and

southward through Morgan Hill. Access to and from the site is provided via its interchanges with I-880 and Oakland Road.

Local access to the site is provided by Brokaw Road and Oakland Road. These roadways are described below.

Brokaw Road is a six-lane east-west arterial that extends from US 101 to Oakland Road. East of Oakland Road, Brokaw Road transitions to Murphy Avenue which extends east to I-680. West of US 101, the roadway changes designation to Airport Parkway and provides access to the San José International Airport.

Oakland Road is a north-south arterial that begins at East Hedding Street in the south, where it transitions from North 13th Street, and continues to Montague Expressway in the north, where it becomes South Main Street in Milpitas. North of US 101, Oakland Road is a four- to six-lane roadway with a two-way center left-turn lane. South of US 101, Oakland Road is a four lane roadway until East Hedding Street, where it becomes a two lane roadway. A widening project is currently underway to widen Oakland Road to six lanes, from Montague Expressway to Hedding Street.

4.16.2.2 *Existing Bicycle and Pedestrian Facilities*

According to the City of San José Transportation Bicycle Network (TBN) and the Santa Clara Valley Transportation Authority (VTA) Bikeways Map, bike lanes exist on Brokaw Road from SR 87 to Capitol Avenue and Oakland Road from West Calaveras Boulevard in Milpitas to Old Bayshore Highway in San José (refer to Figure 4.16-1).

Pedestrian facilities in the project area consist primarily of sidewalks along local roadways. Sidewalks are present along the northern portion of the site's Oakland Road frontage and on the Brokaw Road site frontage.

4.16.2.3 *Existing Transit Service*

Existing transit service to the study area is provided by the Valley Transportation Authority (VTA). The existing transit service is described below and shown on Figure 4.16-2.

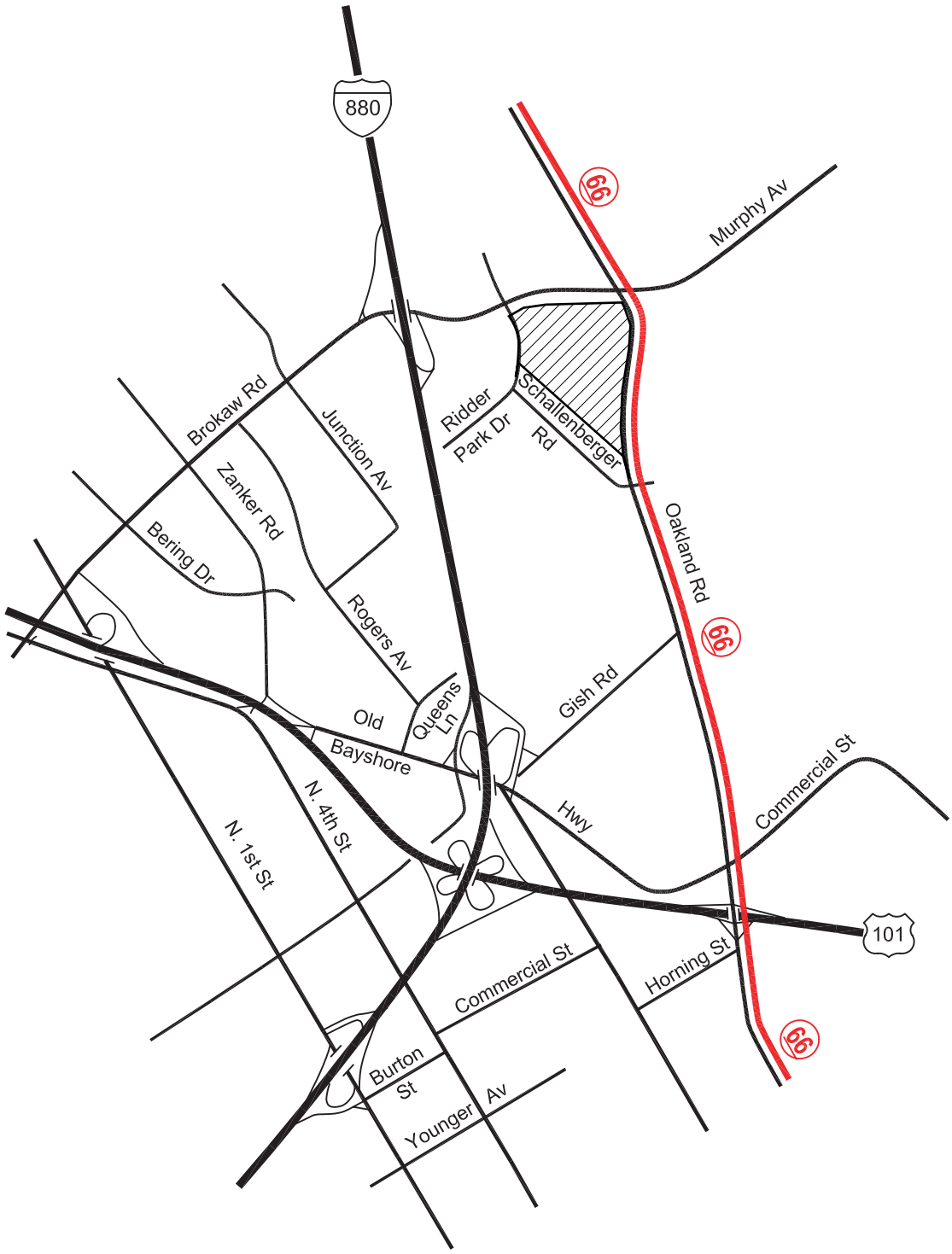
Line 66 provides weekday and weekend service between Santa Teresa Hospital in South San José and Milpitas Boulevard/Dixon Road in Milpitas. It runs from 5:00am to 11:30pm with 15 to 30-minute headways. Line 66 operates along Oakland Road near the site.

LEGEND

= Site Location

= Bike Lanes on steet (Class II)

EXISTING BICYCLE FACILITIES FIGURE 4.16-1



EXISTING TRANSIT FACILITIES

FIGURE 4.16-2

4.16.2.4 *Existing and Background Conditions*

The traffic analysis is based on an adjustment of the land uses assumed for the site as part of the 2005 NSJ FPEIR to reflect the currently proposed project on this site. Existing peak-hour traffic volumes were obtained from the City of San José's database and supplemented with new traffic counts. New peak-hour intersection turning-movement counts were conducted at locations where available counts were more than two years old. Six intersections are currently operating at an unacceptable level of service (LOS) E or worse during at least one peak hour (refer to Appendix G). The remaining study intersections are currently operating at LOS D or better conditions.

Background conditions represent traffic conditions that would occur after all approved projects in the area are completed and producing traffic on the street system. For this project, background conditions represent the 2005 NSJ FPEIR buildout traffic volumes with identified and planned roadway improvements.

4.16.3 Environmental Checklist and Discussion of Impacts

TRANSPORTATION/TRAFFIC						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	☐	1,3,7,21
2) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	☐	1,3,21
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	1,3

TRANSPORTATION/TRAFFIC	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐	1
5) Result in inadequate emergency access?	☐	☐	☐	☒	☐	1
6) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	☐	1,2,21

4.16.3.1 *Transportation/Traffic Impacts*

The project proposes different land uses (residential and commercial) than the development that was previously analyzed and accounted for in the certified 2006 Fox Property General Plan Amendment FEIR and the 2005 NSJ FPEIR. The Department of Transportation determined the proposed changes in General Plan land use designations for the site did not require further analysis.[42]

4.16.3.2 *Trip Generation*

The traffic generated by each of the project scenarios (Scenario 1 – residential and retail, Scenario 2 – residential and office) was estimated using the City's recommended trip generation rates.[43] Based on the recommended rates, it is estimated that Scenario 1 would generate 13,326 daily trips with 761 AM peak-hour trips (350 inbound trips and 412 outbound trips) and 805 PM peak-hour trips (469 inbound trips and 336 outbound trips). Scenario 2 would generate 7,131 daily trips with 826 AM peak-hour trips (459 inbound trips and 367 outbound trips) and 781 PM peak-hour trips (354 inbound trips and 426 outbound trips).

As part of the 2005 NSJ FPEIR, it was assumed that the project site would consist of 419,265 square feet of office/R&D uses based on the site size (27.4 acres) and a 0.35 FAR of development for R&D uses (typical rate for this type of use and rate used in the 2005 NSJ FPEIR. The proposed project would replace the planned office/R&D uses with a mixed-use development. Traffic estimated to be generated by the planned office/R&D uses was removed from the 2005 NSJ FPEIR buildout volumes and replaced by the proposed project generated traffic for each scenario. The trip generation estimates for the approved development on the site and each scenario are shown in Table 4.16-2, on the following page.

[42] Ma, Paul. Transportation Systems Planning Manager , City of San José. Personal Communication. June 7, 2010.
[43] City of San José. *Traffic Impact Analysis Handbook: Volume 1 – Methodologies and Requirements.* 2008.

Table 4.16-2
Trip Generation Estimates for Approved and Proposed Uses

Land Use	Total New Daily Trips	AM Peak Hour		PM Peak Hour	
		Inbound	Outbound	Inbound	Outbound
NSJ Office/R&D	3,354	418	86	65	371
Scenario 1	13,326[a]	350	412	469	336
Net Change	9,972	-68	326	404	-35
Scenario 2	7,131[b]	459	367	354	426
Net Change	3,777	41	282	289	56

Notes: [a] Includes 15 percent residential/retail reduction and 60 percent pass-by retail reduction
[b] Includes three percent residential and employment reduction

4.16.3.3 *Trip Distribution and Assignment*

The directional distribution of the project-generated traffic to and from the site was developed based on existing traffic volumes and the location of complimentary land uses. The peak hour trips generated by the proposed land uses for the site were assigned to the roadway system in accordance with the trip distribution pattern. The office/R&D trips associated with the previously planned uses for the site were reassigned to areas west of I-880. Project trips were assigned to intersections surrounding the site based on the assumption that access to the site would be provided from Oakland Road and Brokaw Road.

4.16.3.4 *Intersection Level of Service Impacts*

The results of the intersection level of service analysis for project conditions show that no intersections beyond those identified as part of the 2005 NSJ FPEIR would be impacted when the planned uses assumed as part of the NSJADP project are replaced by the proposed land uses of either project scenario analyzed. Based on the City of San José's and Congestion Management Agency's impact criteria three intersections identified to be impacted by each of the proposed project scenarios were also identified to be impacted by the NSJADP project buildout and deemed significant and unavailable as part of the 2005 NSJ FPEIR. Therefore, the proposed project would not result in additional intersection impacts.

Impact TRAN-1: While the project would not result in new intersection LOS impacts, the proposed project would contribute to an increase in traffic in the project area and the significant and unavoidable intersection LOS impacts identified in the 2005 NSJ FPEIR. **(Significant Impact)**

The current North San Jose Area Development Policy (NSJADP) was amended and adopted in June 2009 and established a revised traffic fee program to construct necessary improvements in North San José. Fees have been identified for the residential (per unit) and industrial office (per square foot) uses proposed by the project. Since the proposed neighborhood serving retail uses of the proposed Scenario 1 are considered ancillary retail uses as part of the NSJADP, they would not be required to pay traffic impact fees. The proposed residential and office/R&D uses will be required to comply with the City's *North San José Area Development Policy Traffic Impact Fee Ordinance*.

Standard Measure: The project proposes to implement the following standard measure:

SM TRAN-1: Comply with the City's *North San José Area Development Policy Traffic Impact Fee Ordinance*.

4.16.3.5 *Freeway Segment LOS Impacts*

An analysis of freeway segments serving the project area show that the changes in development proposed on the site under each of the project scenarios would not result in additional impacts to freeway segments other than those already identified as part of the 2005 NSJ FPEIR. The 2005 NSJ FPEIR identified freeway segments in the project with significant and unavoidable impacts, and a Statement of Overriding Considerations was adopted as part of the project approvals. The proposed project scenarios would not result in a new significant impact, or substantially more severe impact, to any freeway segments in the project area.

Impact TRAN-2: The proposed project would increase traffic on regional roadway segments and contribute to the significant and unavoidable impacts identified by the 2005 NSJ FPEIR. **(Significant Impact)**

4.16.4 Conclusion

Impact TRAN-1: The proposed project, with the implementation of the above standard measure, would not result in new or more significant impacts to intersection LOS than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

Impact TRAN-2: The proposed project would not result in new or more significant impacts to the regional transportation system than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Existing Setting

The water, sanitary sewer, storm drainage, solid waste, natural gas, and electricity services and facilities have not changed since the certification of the 2005 NSJ FPEIR.

4.17.1.1 *General Plan Policies*

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

- Level of Service Policy #2: Capital and facility needs generated by new development should be financed by new development.
- Level of Service Policy #6: Standard for Sanitary Sewer Lines is Level of Service "D".
- Level of Service Policy #7: Regulate Growth to Ensure Capacity at San José/Santa Clara Water Pollution Control Plant.
- Level of Service Policy #9: Encourages Use of Water Conservation Programs to Reduce Sewage.
- Water Resources Policy #10: Promote Water Conservation through Efficiency.
- Water Resources Policy #11: Promote Reclaimed Water Use for Irrigation.
- Urban Design Policy #7: Undergrounding of Utility Lines Serving New Development.

4.17.1.2 *Water Service*

Water service to the site is supplied by the San José Water Company. Currently, the project site is served by a 16-inch water main located in Brokaw Road and a 12-inch water main located in Oakland Road.

The existing buildings on the project site use approximately 18,060 gallons of water per day.[44]

4.17.1.3 *Sanitary Sewer/Wastewater Treatment*

The City of San José owns and maintains the wastewater collection system in North San José. There are existing six- to 21-inch sanitary sewer lines in Oakland Road and a 42-inch line in Brokaw Road.

It is estimated that the existing buildings on the project site, when fully occupied, can generate approximately 15,351 gallons of sewage per day.[45]

4.17.1.4 *Storm Drainage*

Storm drainage lines are provided and maintained by the City of San José. The project site drains to Coyote Creek through an existing 18- to 27- inch storm drainage line on Oakland Road and a 60-inch storm drainage line on Brokaw Road. Approximately 29 percent of the site is impervious, and the remaining 71 percent of the project site is pervious. Refer to *Section 4.9 Hydrology and Water Quality*, for additional discussion regarding the hydrology and drainage conditions at the site.

[44] Based on a water usage rate of 0.14 gallons/day/sf of floor space for office buildings. John Oberg, City of San José. "Re: sq. ft x coeeficient." Email to David J. Powers and Associates, Inc. February 4, 2004.
[45] Assuming a wastewater generation rate of 85 percent of the total water usage.

4.17.1.5 *Solid Waste*

Garbage collection and recycling collection and processing services, including yard waste recycling, are provided to multi family residences by Green Team. 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 7,634 pounds of solid waste per day.[46]

4.17.2 Environmental Checklist and Discussion of Impacts

UTILITIES AND SERVICE SYSTEMS	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project:						
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	☐	1,2,3
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1,2,3
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1,2,3,7
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐	1,2,3
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐	1,2,3
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐	1,2

[46] Solid waste generation for office uses was based upon a waste generation rate of 0.0108 tons/square foot/year. California Integrated Waste Management Board. "Estimated Solid Waste Generation Rates for Commercial Establishments." 2009. Accessed July 16, 2010. <http://www.calrecycle.ca.gov/WasteChar/WasteGenRates/Commercial.htm>

UTILITIES AND SERVICE SYSTEMS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
Would the project: 7) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒	☐	1,2

4.17.2.1 *Utilities and Service Systems Impacts*

As concluded in the certified 2005 NSJ FPEIR, full implementation of the project would not result in significant adverse environmental impacts as a result of development exceeding the capacity of the water supply, sanitary sewer/wastewater treatment, or storm drainage systems. The proposed development of the site would increase water needs and sanitary sewer flows; however, these increases are not anticipated to be significant, and would not exceed the capacity of these systems.

Utilities and services, such as water, sanitary sewer, electricity, telephone, and natural gas service will be provided from existing lines in the project site area. Development of the proposed project may require new connections to these lines onto the project site; however, the project will not require the construction of extensive new infrastructure to serve the project.

As concluded in the approved 2005 NSJ FPEIR, there is adequate water, sanitary sewer/wastewater treatment, storm drain, and landfill capacity to serve the proposed development.

4.17.2.2 *Water Service*

Implementation of the proposed project will increase the water demand on the project site. The development of office space in combination with residential units would result in the greatest increase in water demand on the site which would be approximately 112,340 gallons per day.[47]

Senate Bill 610

Senate Bill 610 (2001), codified at Water Code Section 10910 at seq., requires that certain water supply information be prepared for projects that are the subject of an EIR. Water Code Section 10912 defines a "project" as a proposed residential development of more than 500 dwelling units. The proposed project of 254 to 650 units is part of the overall 32,000 housing units proposed with the North San José Development Policies Update and therefore is considered a "project" as defined by Section 10912.

San José Municipal Water System and the San José Water Company were notified by the City, in accordance with Water Code Section 10910, of the City's Notice of Preparation for the certified 2005 NSJ FPEIR "project", as defined by Water Code Section 10912. It was concluded that full implementation of the development allowed with the certified 2005 NSJ FPEIR would require the

[47] Based on water usage rates of 136 gallons per day (gpd) per multi-family residential unit and 0.14 gpd per square foot for office uses.
City of San José. *Sewage Treatment Plant Connection Fees, Coefficients, and Rates*. March 2001.
Oberg, John. City of San José. Email Communication. February 4, 2004.

expansion of the existing recycled water system and continued implementation of the City's water conservation programs. The proposed project would not result in any new or more significant water use impacts than were described in the certified 2005 NSJ FPEIR.

Standard Measure: The project will be required to implement several of the City's identified standard water conservation measures including the following:

SM UTIL-1: Construction standards that require high-efficiency fixtures (e.g., high-efficiency 1.2 gallons per flush toilets);

SM UTIL-2: Construction standards that require high-efficiency devices for outdoor water uses (e.g., self adjusting weather based irrigation controllers); and

SM UTIL-3: Promotion and use of drought tolerant and native plantings in landscaping.

SM UTIL-4: The proposed project shall install dual plumbing and connect to the recycled water system for landscape irrigation.

4.17.2.3 *Sanitary Sewer/ Wastewater Treatment*

Implementation of the proposed project would increase wastewater generation on the project site by approximately 96,392 gallons per day.[48] The existing sanitary sewer lines in the North San Jose area have specific constraints that were identified in the 2005 NSJ FPEIR. It was concluded that some of the existing system would need upgrades or modifications prior to development or redevelopment of some sites to meet the City of San José's Level of Service (LOS) requirements.

As part of the 2006 Fox Property GPA FEIR, the Public Works Department determined that adequate sanitary sewer capacity is available in Brokaw Road to serve residential and commercial development on the site. Sanitary sewer connections for the project would be limited to Brokaw Road only and this limitation will be incorporated into the project during the design phase.

The proposed project would not result in any new or more significant impacts to the wastewater infrastructure than were previously identified in the 2005 NSJ FPEIR and the 2006 Fox Property GPA FEIR.

4.17.2.4 *Storm Drainage*

The proposed project would result in a 32 percent increase in impervious surfaces on the site (refer to *Section 4.9 Hydrology and Water Quality).* With construction of an on-site storm drainage collection system including stormwater treatment BMPs the project would not result in any new significant impacts to the storm drainage collection system in the project area.

[48] Assuming a wastewater generation rate of 85 percent of the total water usage. 112,340 gpd x 0.85 = 95,489gpd.

4.17.2.5 *Solid Waste*

Implementation of the proposed project would result in a net increase in solid waste generated from the site. The development of office space in combination with residential units would result in the greatest increase in solid waste generation on the site which would be approximately 13,629 pounds per day.[49] The 2005 NSJ FPEIR concluded that there is sufficient capacity in the existing solid waste disposal facilities serving San José to accommodate waste generated by the development approved under the North San José Development Policies Update, which included the proposed project. As a result, implementation of the proposed project will not result in any new or more significant impacts to solid waste collection and disposal than were previously identified in the 2005 NSJ FPEIR.

4.17.3 Conclusion

The proposed project is not anticipated to exceed the capacity of existing utility systems. The proposed project, with the implementation of the above standard measures, would not result in new or more significant impacts to utilities and service systems than those addressed in the certified 2005 NSJ FPEIR. **(No New Impact)**

[49] The solid waste and recycling generation for the proposed project was based on solid waste generation rate of 31.1 pounds per household per week for multi-family residences and the recycling generation rate of 6.8 pounds per household per week for multi-family residences. Office waste generation based on CIWMB rates.
Godley, Laurel. City of San José, Environmental Services Department. Email Communication. November 2, 2006.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Information Source(s)/ Discussion Location
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐	1, p. 16-127
2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	☐	1, p. 16-127
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐	1, p. 16-127
4) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒	☐	1, p. 16-127

The 2005 NSJ FPEIR analyzed the development of 26.7 million square feet of new industrial/office/R&D building space, 1.7 million square feet of new neighborhood serving commercial uses, one million square feet of new regional commercial uses, 1,000 new hotel rooms, and the addition of 32,000 new dwelling units in North San José. Since the approval and certification of the NSJ FPEIR in June 2005, the City has approved projects that could use the full residential capacity available in Phase 1 under the provisions of the NSJADP. Several of these approved projects have allowed their permits to expire and their allocation of residential development capacity is no longer reserved.[50] Approximately 212 market rate and 982 affordable residential units are unreserved under Phase 1 of the NSJADP. Sufficient capacity could become available for the development of the proposed project if Planned Development (PD) permits expire for previously entitled projects.

The proposed development is within the amount of development analyzed in the 2005 NSJ FPEIR and 2006 Fox Property GPA FEIR. The project would not result in new or more significant environmental impacts than those addressed in the certified 2005 NSJ FPEIR with the

[50]City of San José. *North San José Area Development Policy*. June 2010. Available at: <http://www.sanjoseca.gov/clerk/Agenda/20100608/20100608_0403att1.pdf> Accessed July 26, 2010.

implementation of the standard, avoidance, and mitigation measures included in the project and described in the specific sections of this Addendum. The City of San José has determined that this project qualifies for an addendum to the 2005 NSJ FPEIR and 2006 Fox Property GPA FEIR.

Checklist Sources

1. Professional judgment and expertise of the environmental specialist preparing this assessment, based upon a review of the site, surrounding conditions, and review of the project plans.

2. City of San José. *San José 2020 General Plan* and *Municipal Code.*

3. City of San José. *Final Program Environmental Impact Report for the North San José Area Development Policy Update*. June 2005.

4. California Natural Resources Agency. *Santa Clara County Important Farmland 2008*. Map.

5. Bay Area Air Quality Management District. *CEQA Air Quality Guidelines.* June 2010.

6. HortScience, Inc. *Preliminary Tree Report 1040-1080 E. Brokaw Road and 1633 Old Oakland Road, San José, CA.* January 2010.

7. Live Oak Associates, Inc. *Fox Property Biological Evaluation.* July 14, 2010.

8. City of San José. *Final EIR for the Fox Property General Plan Amendment.* November 2006.

9. Holman & Associates. *Extended Archaeological Survey Markovits and Fox Inc. Property1040-1080 East Brokaw Road/1633 Oakland Road, San José, Santa Clara County.* May 2010.

10. Cornerstone Earth Group. *Preliminary Geotechnical Investigation Oakland Road Mixed-Use Development.* January 2010.

11. Illingworth & Rodkin, Inc. *Fox Property Project Greenhouse Gas Assessment*. July 1, 2010.

12. Cornerstone Earth Group. *Clean Closure Report Former Debris Consolidation Cell 1633 Oakland Road.* October 24, 2008.

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16. Cornerstone Earth Group. *Screening Level Vicinity Hazardous Materials Risk Assessment.* July 20, 2007.

17. Cornerstone Earth Group. *Screening Level Vicinity Hazardous Materials Review.* January 20, 2010.

18. Federal Emergency Management Agency. Flood Insurance Rate Map. Community Panel Number 06085C0069H. May 18, 2009.

19. Association of Bay Area Governments. *Dam Failure Inundation Map for NW San José/Milpitas/Santa Clara.* Accessed on February 16, 2010 at: http://www.abag.ca.gov/cgi-bin/pickdamx.pl.

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21. Hexagon Transportation Consultants, Inc. *Fox Site Mixed-Use Supplemental Traffic Analysis*. June 8, 2010.

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

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