

County of Santa Clara
Department of Planning and Development
Planning Office



ALUC02 032807

Prepared by: Mark Connolly
Planner III

Reviewed by: Michael Lopez
Planning Manager

DATE: March 28, 2007

TO: Airport Land Use Commission

FROM:

A handwritten signature in black ink, appearing to read "Michael Lopez".

ML

Michael Lopez
Planning Manager

SUBJECT: Rezoning request from the City of San Jose to rezone a parcel from IP (Industrial Park Zoning District) to A(PD) Planning Development Zoning District for construction of 424 multiple dwelling units in two high-rise towers with ground floor commercial on a 6.1 gross acre site located on the southwest corner of the intersection of Airport Parkway and Highway 101 (City of San Jose No. PDC06-130, APN 230-29-065). The rezoning would allow a change of maximum building height from 150 feet to 220 feet, and is in conjunction with a General Plan Text Amendment previously found inconsistent with the ALUC Land Use Plan.

RECOMMENDED ACTION

Consider a Rezoning request from the City of San Jose, to rezone a parcel from IP (Industrial Park Zoning District) to A(PD) Planning Development, and find the rezoning request inconsistent with the ALUC height policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports. The parcel is located on the southwest corner of the intersection of Airport Parkway and Highway 101.

Other Possible Action:

Find the Rezoning consistent with ALUC height policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airport.

REASONS FOR RECOMMENDATION

The subject project is a request from the City of San Jose to rezone the subject parcel to allow residential development and change the maximum building height from 150 feet to 220 feet on a 6.1-acre site located at the southwest corner of the intersection of Airport Parkway and Highway 101. The project area is within the San Jose airport referral area, and encompasses one parcel located approximately 3,116 feet from the San Jose International Airport. The subject site lies outside the safety zones and outside the 60dB, 65dB, 70dB, and 75dB CNEL Contours for San Jose International Airport.

The project area lies within a Federal Aviation Administration (FAA) Part 77 Imaginary Surface height-restricted area of 206 feet above sea level. The average mean elevation of the subject parcel is approximately 47 feet. The maximum height of any proposed development must not exceed 159 feet in order to not impact the FAA's surface height limitation at the project site (206 feet). The adoption of the North San Jose Area Development Policy added a Transit/Employment Residential Overlay designation to the existing Industrial Park and Existing or Preferred Hotel Site designation for this property. Therefore, this designation would allow for the construction of a high rise condominium building up to 220 feet on the project site. The City of San Jose is processing an application to facilitate a proposal to construct two high-rise condominium towers and a separate mixed-use residential/commercial townhouse structure on the site. The applicants have indicated development of 424 units provided by the towers and eight units in the townhouse/retail (approximately 7,980 square feet of commercial space) structure.

The City of San Jose is currently seeking an override of an ALUC decision on April 26, 2006

that found a General Plan Text Amendment inconsistent with the Land Use Plan. The General Plan text Amendment proposed changing the allowed maximum building height of the 6.1-acre project site from 150 feet to 230 feet. The current proposal for development of the site includes a reduction in overall building height of the towers from 230 feet tall to 220 feet tall.

After the General Plan Text Amendment was found to be inconsistent with the Land Use Plan, a submittal was made by the City of San Jose to the FAA. The request was made pursuant to federal regulations for a maximum building height of 220 feet above the ground surface and 263 feet above mean sea level. The request was based on an overall height that was 10 feet lower than what the ALUC considered. However, the overall height still exceed 206 feet, which was determined to be the maximum allowed building height on site. Based on this submittal, the FAA issued a Determination of No Hazard on the condition that the buildings are marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4, 5 (red), and 12.

Therefore, the applicant is asking the ALUC to find the Rezoning consistent with the Land Use Plan, given the fact that the FAA has issued a " No Hazard Determination" on a building height of 220 feet tall.

BACKGROUND

The adoption of the North San Jose Area Development Policy added a Transit/Employment Residential Overlay designation to the existing Industrial Park (IP) and Existing or Preferred Hotel Site designation for this property. This residential overlay area is intended to provide housing in close proximity to jobs to allow employees the opportunity to reduce their commute travel times, make increased use of transit facilities and to reduce overall traffic congestion. The subject site and its immediate surrounding area is designated Industrial Park and identified as an Existing or Preferred Hotel Site under the Rincon South Specific Plan. Subsequent to a General Plan Text Amendment to incorporate an increased building height, the rezoning from IP to A(PD) is being requested to allow residential development in conformance with the General Plan.

ATTACHMENTS

-
- Attachment 1: City of San Jose Project Referral
- Attachment 2: Parcel Information for Project Area
- Attachment 3: Project Area in Relation to ALUC Land Use Referral Boundary for San Jose International Airport
- Attachment 4: Project Area in Relation to CNEL Noise Contours for San Jose International Airport
- Attachment 5: Project Area in Relation to ALUC Height Restriction Boundary for San Jose International Airport
- Attachment 6: Site Plan of Tentative Future Development Proposal
- Rezoning description, and revised project specifics

County of Santa Clara
Airport Land Use Commission

Wednesday, March 28, 2007
Minutes

Regular Meeting

1. Call to Order/ Roll Call

The regular meeting of the Airport Land Use Commission is called to order by Chairperson Sturdivant at 6:04 p.m. in Room 157, County Government Center, 70 West Hedding Street, San Jose. A quorum is present.

Members Present:

Robert Sturdivant

E. Ronald Blake

Ralph Britton

Arthur Knopf

Walter Windus

Members Absent:

(2 vacancies)

2. Public Presentations

There are no public presentations.

3. Approve minutes of January 24, 2007

ExOfficio Commissioner Cary Greene states that on page 3, Item No. 6, the second line from the bottom should be amended to read "...the mean sea level (MSL), and that the ground elevation of the project site is at approximately 90..."

On motion of Commissioner Windus, seconded by Commissioner Britton, it is unanimously ordered that the minutes of January 24, 2007 be approved, as amended.

4. Consider a Rezoning request from the City of San Jose, to rezone a parcel from IP (Industrial Park Zoning District) to A(PD) Planning Development, and find the rezoning request inconsistent with the ALUC height policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports. The parcel is located

on the southwest corner of the intersection of Airport Parkway and Highway 101.

Chairperson Sturdivant introduces the item and requests clarification on the difference between Agenda Item Nos. 4 and 5. Mark Connolly, Planner III, County of Santa Clara Planning Department, states that Item No. 5 relates to a request to amend the General Plan that was found inconsistent with the Land Use Plan in April 2006, and that the project site has received a No Hazard Determination from the Federal Aviation Administration (FAA). He clarifies that Agenda Item No. 4 is a re-zoning request for the same project site, as opposed to a request to amend the General Plan.

Commissioners and staff discuss the proposed project height and the height restrictions for the project site based on Federal Aviation Regulation (FAR) Part 77. Allen Tai, City of San Jose, introduces himself and states that Debbie Kaiser, Applicant, and Chris Burton, Project Manager and representative of the City of San Jose are also present to answer questions or provide clarification on the request. Mr. Tai informs that Commission that the current height limit for the project site is 208 feet above mean sea level (msl) and the applicant is requesting a re-zoning to 263 feet msl. He notes that the current proposed project is lower than the project proposed in April 2006, and he reports that in the Industrial Core Area there is a height limit of 305 feet msl within 1,000 feet of the project site. He further advises that the proposed project site is east of the runways and is outside of the CNEL Noise Contour and the Airport Safety Zone.

Mr. Tai goes on to state that the re-zoning request is consistent with the North San Jose General Plan. Mr. Tai distributes copies of the No Hazard Determination letter received from the FAA. Commissioners discuss circle-to-land height requirements and procedures. Chairperson Sturdivant indicates that the ALUC has experienced issues with FAA No Hazard Determinations in the past because the FAA may then require pilots to use a higher circling approach, for example. He emphasizes that the ALUC tends to utilize the FAR Part 77 surfaces as its guide rather than No Hazard Determinations.

Commissioner Windus expresses concerns with safety and states that he does not understand the basis of the Part 77 surfaces if the FAA continually says that projects penetrating these surfaces are not a hazard. He requests a presentation at a future meeting of

the ALUC from the office that completes No Hazard Determination studies. Chairperson Sturdivant requests that Commissioner Windus arrange for such a presentation.

Commissioner Windus states that utilizing the Part 77 surfaces as the criteria for zoning requests is reasonable because the ALUC is responsible to plan for more than 20 years in the future.

On motion of Commissioner Windus, seconded by Commissioner Britton, it is unanimously ordered that the rezoning request from the City of San Jose to rezone a parcel located at the southwest corner of the intersection of Airport Parkway and Highway 101, from IP (Industrial Park Zoning District) to A(PD) Planning Development be found inconsistent with ALUC policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports.

5. **Consider comments to be forwarded to the City of San Jose regarding a proposed override by the City regarding ALUC action on April 26, 2006 that found a General Plan Amendment (application number GP06-T-01) inconsistent with ALUC height policies, as defined in the "Land Use Plan for Areas Surrounding Santa Clara County Airports" on a 6.1-acre parcel located at the southwest corner of Airport Parkway and Highway 101.**

Chairperson Sturdivant reports that this item relates to notice that the City of San Jose intends to override the ALUC action taken in 2006 on this site. Lizanne Reynolds, County Counsel, advises that the City of San Jose has taken the position that the FAA No Hazard Determination demonstrates that there is no hazard and that they do not believe it is inconsistent with any policy in the Comprehensive Land Use Plan (CLUP). Chairperson Sturdivant requests that Mr. Connolly compose a letter to the City of San Jose on behalf of the ALUC stating that the ALUC continues to abide by the height limits included in the FAR Part 77 guidelines and that this project should comply with those requirements rather than with the FAA No Hazard Determination.

On motion of Commissioner Britton, seconded by Commissioner Knopf, it is unanimously

ordered that Mr. Connolly be authorized to send a letter to the City of San Jose on behalf of the ALUC stating that the ALUC continues to abide by the height limits included in the FAR Part 77 guidelines and that this project should comply with those requirements rather than with the FAA No Hazard Determination.

6. Accept status report on San Jose's Airport Obstruction Study (Greene)

Possible Action:

Authorize/designate a Commissioner to speak on behalf of the ALUC at the San Jose City Council study session relating to the Airport Obstruction Study.

7. Receive update regarding finalizing the Comprehensive Land Use Plan (CLUP) for Reid-Hillview Airport (Windus and Connolly)

8. Approve Workplan for Fiscal Year 2008 and forward to the Housing, Land Use, Environment and Transportation Committee and subsequently to the Board of Supervisors

9. Accept verbal report on minor project referrals (Connolly)

a. Discuss process for reviewing minor projects

b. Consider Voluntary Minor Project referral from the the City of Palo

Alto to relocate and renovate the historic Sea Scout building. The

proposed project is within the the Palo Alto Airport Airport

Influence Area, located at 2560 Embarcadero Road. APN: 008-05-005.

10. Accept verbal reports on Airports

a. Airport Planner, San Jose International Airport (Greene)

b. Director of County Airports (Honaker)

11. Accept Chairperson's verbal report (Sturdivant)

12. Accept Correspondence

13. Announcements

a. Memorandum from Clerk of the Board, dated March 20, 2007, regarding parking at the County Government Center.

b.

On March 20, 2007, the Board of Supervisors approved a revised Handbook for Advisory Boards and Commissions. Copies will be provided to board/commission members at the meeting.

14. Adjourn to next workshop session on April 25, 2007 at 6:00 p.m. in Room 157, County Government Center, 70 West Hedding Street, San Jose.

ALUC

SANTA CLARA COUNTY

Airport Land Use CommissionCounty Government Center, 70 W. Hedding Street, East Wing, 7th Fl., San Jose, CA
95110

(408) 299-5786 FAX (408) 288-9198

April 5, 2007

Allen Tai, Project Manager
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San Jose, CA 95113

Re: City of San Jose File No. GP06-T-01 Override

General Plan Text Amendment request to revise the text section of the North San Jose Development Policy to allow a change of maximum building height from 150 feet to 230 feet above ground level (AGL), on a 6.1-acre parcel and amend the text of the Rincon South Specific Plan on the southwest corner of the intersection of Airport Parkway and Highway 101 (APN 230-29-065).

Dear Mr. Tai:

At the meeting of March 28, 2007, the ALUC considered comments on the proposed override of the determination made at the April 26, 2006 meeting, which found the above-cited General Plan Text Amendment and Specific Plan Text Amendment inconsistent with the Land Use Plan for Areas Surrounding Santa Clara County Airports. At the meeting, the ALUC moved to forward the following comment on the proposed override:

The ALUC continues to adhere to the height regulations as stated in the FAA Part 77 elevations. Although a "No-Hazard" determination has been issued by the FAA, the ALUC still finds the General Plan Amendment and Specific Plan Amendment to be inconsistent with the *Land Use Plan for Areas Surrounding Santa Clara County Airports*, because the amendments propose the allowance of a maximum building height of 230 feet in this specific development proposal, which exceeds the height restriction boundary of 206 feet. As a result of the No-Hazard determination, the development proposal included a reduction in the height of the specific proposal to 220 feet. The ALUC still found the General Plan Amendment and Specific Plan Amendment inconsistent with the Land Use Plan for the same reason.

The ALUC finds that the Federal Aviation Administration (FAA) Part 77 Imaginary Surface Height Restrictions, adopted by the ALUC, represent a reasonable consideration for public safety, for which compliance should be required.

The ALUC file number is 8969-06R-03. If you have any questions, please do not hesitate to contact me at (408) 299-5786, or via e-mail at: mark.connolly@pln.sccgov.org.

Sincerely,

ALUC

SANTA CLARA COUNTY

Airport Land Use Commission

County Government Center, 70 W. Hedding Street, East Wing, 7th Fl., San Jose, CA
95110

(408) 299-5786 FAX (408) 288-9198

Mark J Connolly
ALUC Staff Coordinator
Tms/mjc

**ADDENDUM TO AN EIR
USE OF A FINAL EIR PREPARED FOR A PREVIOUS PROJECT**

Pursuant to Section 15164 of the CEQA Guidelines, the City of San Jose has prepared an Addendum to an Environmental Impact Report (EIR) because minor changes made to the project that are described below do not raise important new issues about the significant impacts on the environment.

PROJECT DESCRIPTION AND LOCATION

PDC06-130. Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planning Development Zoning District for the construction of up to 600 multiple dwelling units in two high-rise towers with ground floor commercial on a 6.08 gross acre site located at the southeasterly corner of the intersection of Airport Parkway and Old Bayshore Highway (40, 50 Airport Parkway).

Council District 3.

County Assessor's Parcel Number 230-29-065

The environmental impacts of this project were addressed by a Final EIR entitled, " North San Jose Area Development Policies Update," and findings were adopted by City Council Resolution No. 72768 on June, 2005. Specifically, the following impacts were reviewed and found to be adequately considered by the EIR:

Traffic and Circulation	Soils and Geology	Noise
Cultural Resources	Hazardous Materials	Land Use
Urban Services	Biotics	Air Quality
Aesthetics	Airport Considerations	Microclimate
Energy	Relocation Issues	Construction Period Impacts
Transportation	Utilities	Facilities and Services
Water Quality		

ANALYSIS:

The City of San Jose may take action on the proposed project as being within the scope of the North San Jose Area Development Policies Update Final EIR adequately addresses the environmental effects of the proposed project, and project would not result in significant environmental effects that are not already identified in the Final EIR. The project, therefore, meets the eligibility requirements for preparation of an addendum and does not require a supplemental EIR or ND.

Chris Burton
Project Manager

Joseph Horwedel, Director
Planning, Building and Code Enforcement

1/12/08
Date

Akemi Sanchez
Deputy

INITIAL STUDY

**FOSTER TOWERS
RESIDENTIAL DEVELOPMENT**

City of San Jose

January 2008

TABLE OF CONTENTS

	<u>PAGE</u>
SECTION 1: INTRODUCTION AND PURPOSE.....	1
SECTION 2: PROJECT INFORMATION.....	3
SECTION 3: PROJECT DESCRIPTION	6
SECTION 4: ENVIRONMENTAL SETTING & CHECKLIST.....	8
4.1 Aesthetics.....	8
4.2 Agricultural Resources.....	16
4.3 Air Quality.....	18
4.4 Biological Resources.....	21
4.5 Cultural Resources.....	29
4.6 Geology and Soils.....	32
4.7 Hazards and Hazardous Materials.....	35
4.8 Hydrology and Water Quality.....	41
4.9 Land Use.....	47
4.10 Mineral Resources.....	56
4.11 Noise.....	57
4.12 Population and Housing.....	63
4.13 Public Services.....	64
4.14 Recreation.....	67
4.15 Transportation.....	69
4.16 Utilities and Service Systems.....	72
4.17 Mandatory Findings of Significance.....	75
SECTION 5: REFERENCES	76
SECTION 6: AUTHORS AND CONSULTANTS.....	77

TECHNICAL APPENDICES

- A Tree Survey
- B. Geotechnical Report
- C. Phase I Report
- D. Vicinity Hazardous Materials Users Survey I
- E. Vicinity Hazardous Materials Users Survey II
- F. FAA Determination of No Hazard
- G. Noise

FIGURES

Figure 1 Regional Map.....4
Figure 2 Community Map5
Figure 3 Site Plan7
Figure 4 Noise Survey.....22
Figure 5 Noise Level48
Figure 6 Noise Measurement Locations.....58

TABLES

Table 1 Noise Survey.....21
Table 2 Noise Replacement Requirements.....27
Table 3 Consistency with North San José Area Development Policy
Residential Checklist.....50
Table 4 Noise Deck Noise Attenuation.....60

SECTION 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 environmental impacts that might reasonably be anticipated to result from implementation of the proposed rezoning of approximately 6.08 acres in north San José from *IP – Industrial Park* to *A(PD) – Planned Development* to allow for the development of up to 600 attached dwelling units and 10,168 gross square feet of commercial space.

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 rezoning of the project site.

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) with 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 duplicate 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 the City of San José Final Program EIR for the North San José Development Polices Update (State Clearinghouse No. 2004102067) certified by the City Council (Resolution No. 72768) on June 21, 2005 (hereafter referred to as NSJ FPEIR).

Background

Prior to certification of the NSJ FPEIR the proposed project site was designated *IP – Industrial Park* on the City of San José General Plan Land Use/Transportation Diagram. Under the Rincon South Specific Plan, the project site was identified as a Preferred Hotel Site and was assigned a Floating Park designation. Specific existing and potential hotel sites within Rincon South are considered appropriate for hotel expansion or new hotel development in addition to the allowed uses consistent with the underlying General Plan designation. The Floating Park designation is applied to a general area where a park will be located but the specific size, location, and configuration of the park site has not been identified. Under the North San José Area Development Policy, a *Transit/Employment Residential (55+ DU/AC) Overlay* land use designation was added to the project site. The *Transit/Employment Residential (55+ DU/AC) Overlay* designation did not change the existing underlying land use designation, but indicated that City Policy supports residential development as an alternate land use on the project site at a minimum average density of 55 units per acre. The overlay designation permits development of commercial uses on the first two floors in combination with residences on upper floors, as well as wholly residential projects. Development within this category is intended to make efficient use of land to provide residential units in support of nearby industrial employment centers. The overlay designation allows for residential development on the

project site with a maximum height limit of 150 feet without further modification to the General Plan through rezoning and the development permit process.

SECTION 2 PROJECT INFORMATION

A. PROJECT TITLE

Foster Towers Residential Project

B. PROJECT LOCATION

The project site is located at 40 and 50 Airport Parkway on the southern corner of the Airport Parkway/Old Bayshore Highway intersection in north San José. See Figures 1 and 2 below.

C. LEAD AGENCY CONTACT INFORMATION

Chris Burton
City of San José
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street
San José, CA 95113

D. PROPERTY OWNER'S NAME AND ADDRESS

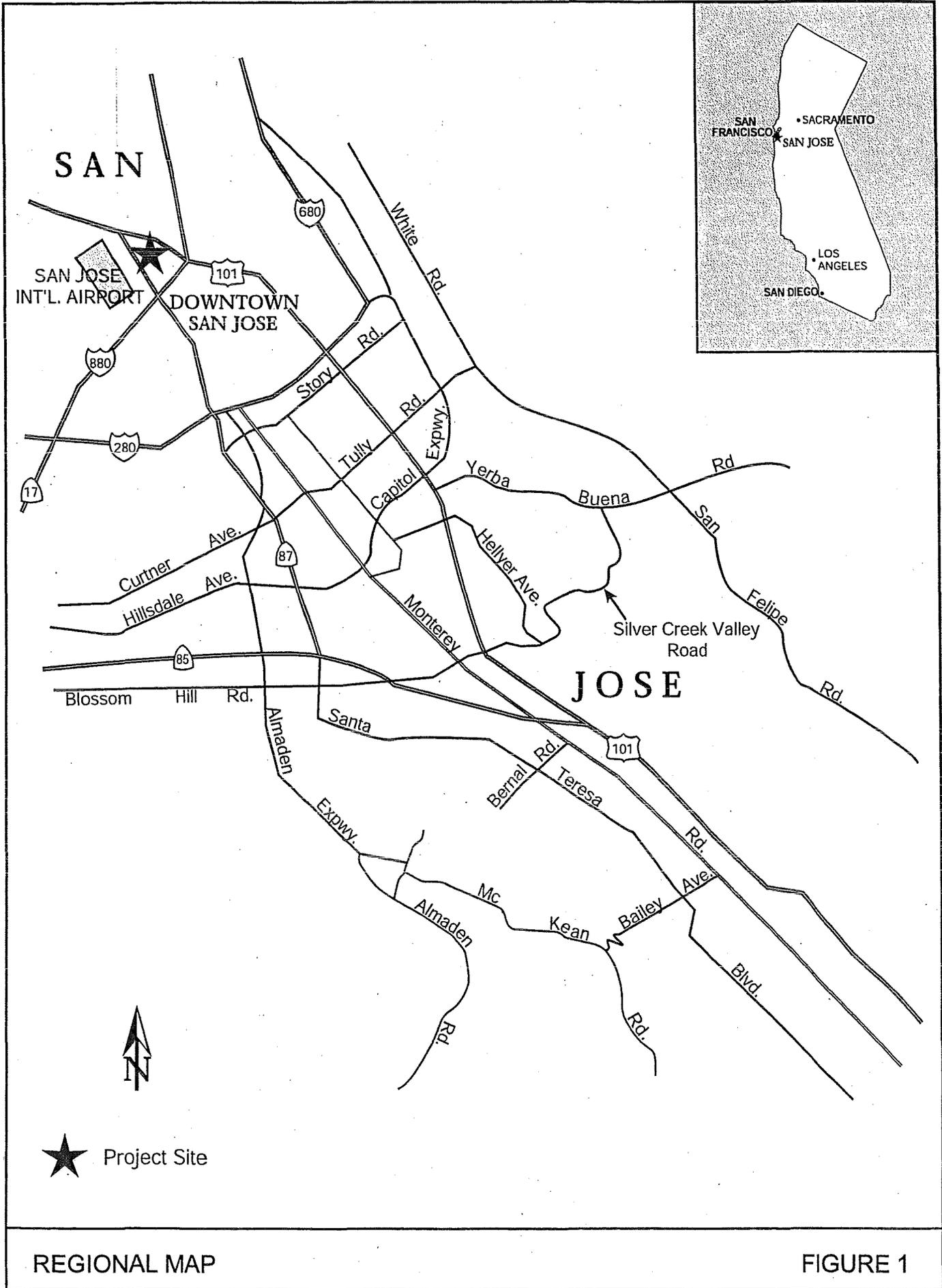
Foster Airport Parkway, LLC
c/o Foster Enterprises
250A Twin Dolphin Drive
Redwood City, CA 94056

E. ASSESSOR'S PARCEL NUMBERS

230-29-065

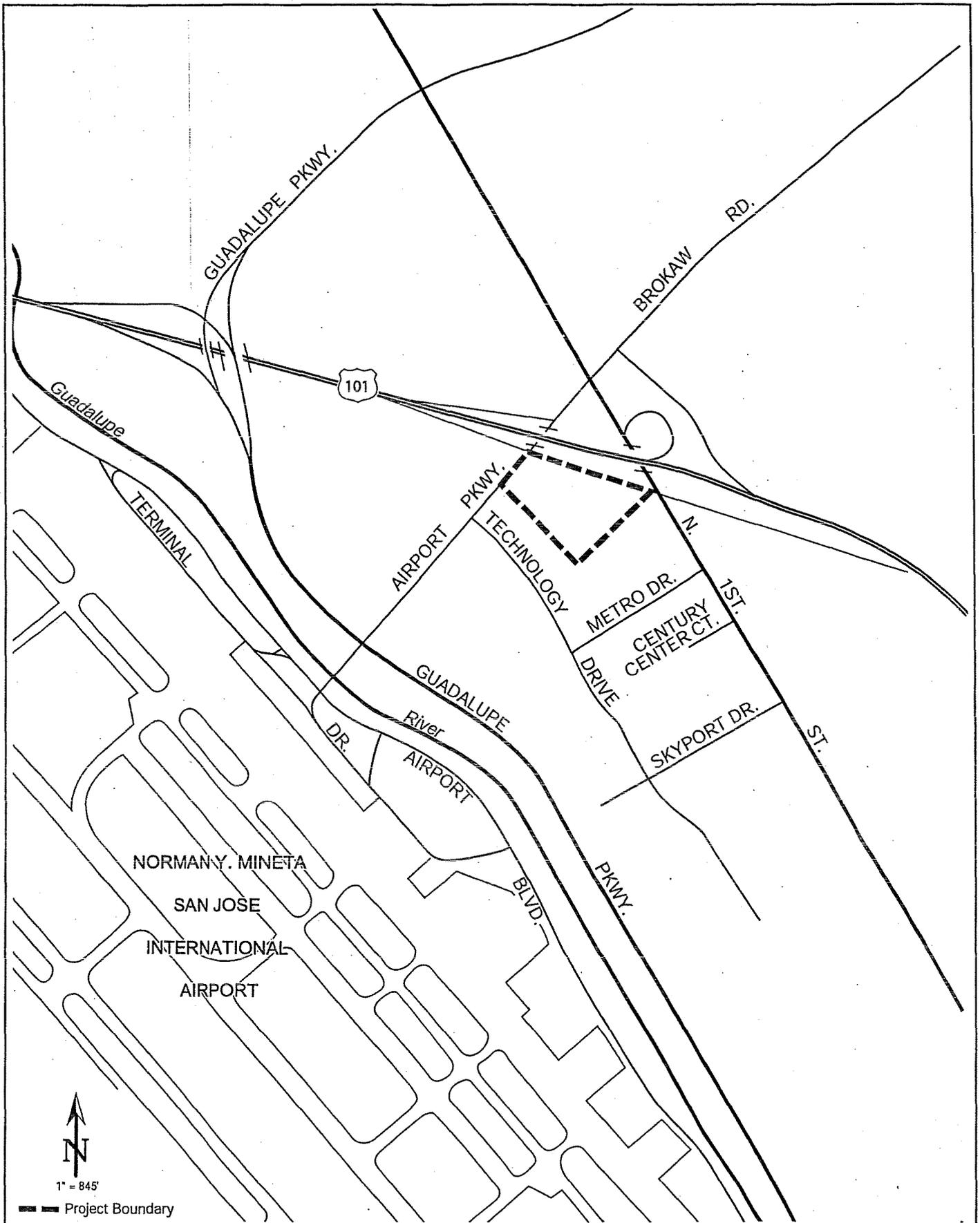
F. ZONING DISTRICT AND GENERAL PLAN DESIGNATION

The project site is designated *IP – Industrial Park* with a *Transit/Employment Residential (55+ DU/AC) Overlay* and a Floating Park designation by the City of San José's General Plan and is zoned *IP – Industrial Park*. Under the Rincon South Specific Plan, the site is also designated as a Preferred Hotel site.



REGIONAL MAP

FIGURE 1



VICINITY MAP

FIGURE 2

SECTION 3 PROJECT DESCRIPTION

For the purposes of this analysis, the north side of the project site is defined by Old Bayshore Highway where it runs parallel to U.S. 101.

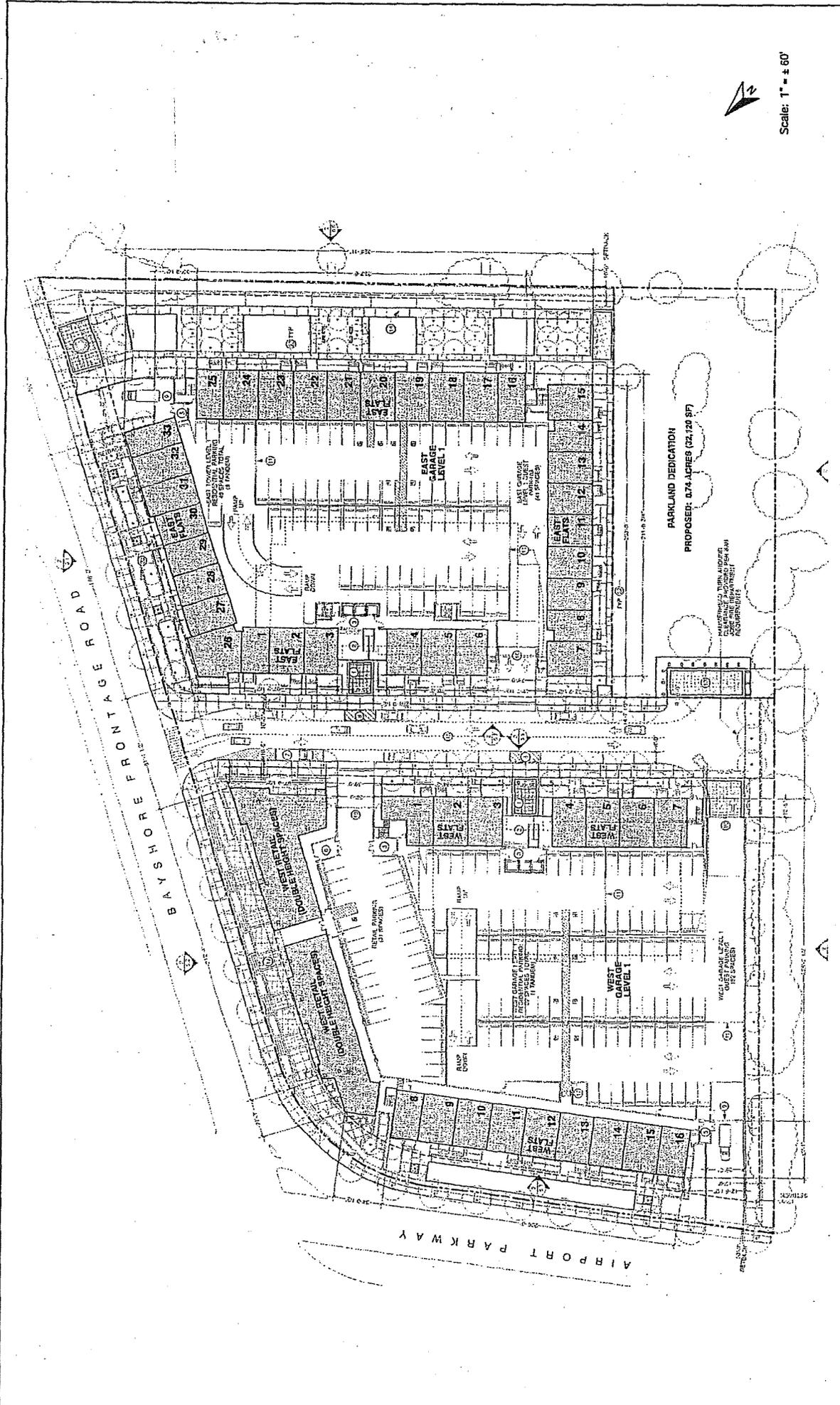
The 6.08-acre project site is a developed property that is designated *Industrial Park* with a *Transit/Employment Residential (55+ DU/AC) Overlay* on the City of San José's adopted General Plan. The site is currently developed with two single story office buildings that total approximately 102,000 square feet, a parking lot, and landscape trees throughout the site. The project proposes to demolish the existing buildings and construct two condominium towers with 600 dwelling units, 10,168 gross square feet of ground floor retail space and a public park.

The two condominium towers (West Tower and East Tower) will each have 20 floors of residential units and three floors of parking for a total height of 220 feet. Currently the allowable building height on the site is 150 feet. A General Plan Text amendment is proposed to increase the allowable building height on-site to 220 feet.

Each tower will have up to 227 condominium units. The East Tower will also have 33 three-story townhouse/studio units with a total of 98 dwelling units. The West Tower will also have 16 three-story townhouse/studio units with a total of 48 dwelling units and two retail spaces. In total, the project will have 600 residential units (approximately 99 units to the acre) and 8,958 net square feet of retail space. The townhouse/studio units will be located at ground level on the east and west side of the West Tower and on all four sides of the East Tower. The retail will be configured as "double height" spaces attached to the north face of the West Tower (see Figure 3). Recreational facilities on-site will include a 0.74 acre public park which will be dedicated to the City and a pool for the residents. The park will be located behind the East Tower, in the southeastern corner of the project site and will have public access from the interior roadway which will be a public roadway. The pool deck will be located on the courtyard level (third floor) above the retail spaces.

Parking for the residential units, guests, and retail customers will be provided within the two towers. Each tower will have three levels of parking (one level below grade, one level at grade, and one level above grade). Both of the parking garages will be accessed by a two lane (one lane in each direction) public roadway (with landscape medians) located between the two towers which will connect to Old Bayshore Highway. The project proposed a total of 883 regular parking spaces and 106 tandem parking spaces.

Parking for retail customers will be provided in a designated area on the first floor of the West Tower and will be accessed by the main driveway on the Bayshore Frontage Road. Guest parking will be provided on the first floor of both parking garages. The garage parking will provide guest spaces and will be separated from the resident parking by a security gate. Additional parking will be provided in parallel parking stalls located along the main drive aisle. The drive aisle will provide 16 parking spaces.



SITE PLAN

FIGURE 3

SECTION 4 ENVIRONMENTAL SETTING & CHECKLIST

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 (NSJ FPEIR). The amount of residential development proposed for the project site was included and analyzed in the NSJ FPEIR and the FEIR evaluated, at a program level, developing residential uses on the project site. This Initial Study evaluates the project-specific environmental impacts of the proposed project that were not addressed in the NSJ FPEIR. At the time of preparation of this Initial Study, two residential developments (PDC06-022 and PDC05-099) consisting of up to 680 residential units and 5,000 square feet of commercial space have been approved under the auspices of that FPEIR.

This section describes the existing environmental conditions on and near the subject site, and defines environmental impacts from the proposed project under each of the listed categories. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, was used to compare the environmental impacts of the proposed project with those of the previously approved project (i.e., development evaluated in the 2006 NSJ FPEIR) and to identify whether the proposed project would likely result in new significant environmental impacts not identified in the NSJ FPEIR. The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of the checklist. This section identifies environmental impacts from the project, and an explanation for those adverse impacts determined to be less than significant. Mitigation measures are identified and described for significant impacts, and evaluated for their expected effectiveness/feasibility, where proposed.

4.1 AESTHETICS

4.1.1 Setting

The project site is currently developed with two, one story stucco office buildings with floor to ceiling windows that are surrounded by a surface parking lot and landscaping (see Photos 1 and 2). The landscaping consists of a small grass area at the western end of the building and trees around the building and perimeter of the site.

North San José is a developed urban area. There are a few as-yet-undeveloped and partially developed properties remaining in the area, but they are not adjacent or within view of the project site and the visual context of the project area is urban. The project area is a mix of office, commercial, and hotel land uses with a wide variety of architectural styles.

The project site is bordered on the north side by Old Bayshore Highway, which is a six-lane local roadway that connects Airport Parkway to North First Street and provides access to U.S. 101. On the north side of Old Bayshore Highway is U.S. 101 which is elevated in the vicinity of the project site. The project is bordered to the east by the Fairfield Inn and Suites hotel (see Photo 3), a new commercial development, and a gas station. The hotel is a stucco u-shaped building with two floors of guest units in the section of the building nearest the project site. The remaining two sections of the building have three floors of guest units. Adjacent and north of the hotel is a small one-story, wood frame commercial center that is currently under construction. East of the gas station and new commercial center is the Metro Light Rail Station (see Photo 4), which is a small covered light rail stop located in the middle of North First Street. Just east of the hotel is the Metro Plaza office complex, which is a three story glass and stucco office building with three seven-story towers facing Metro Drive (see Photo 5). South of the site are three two-story stucco office buildings surrounded

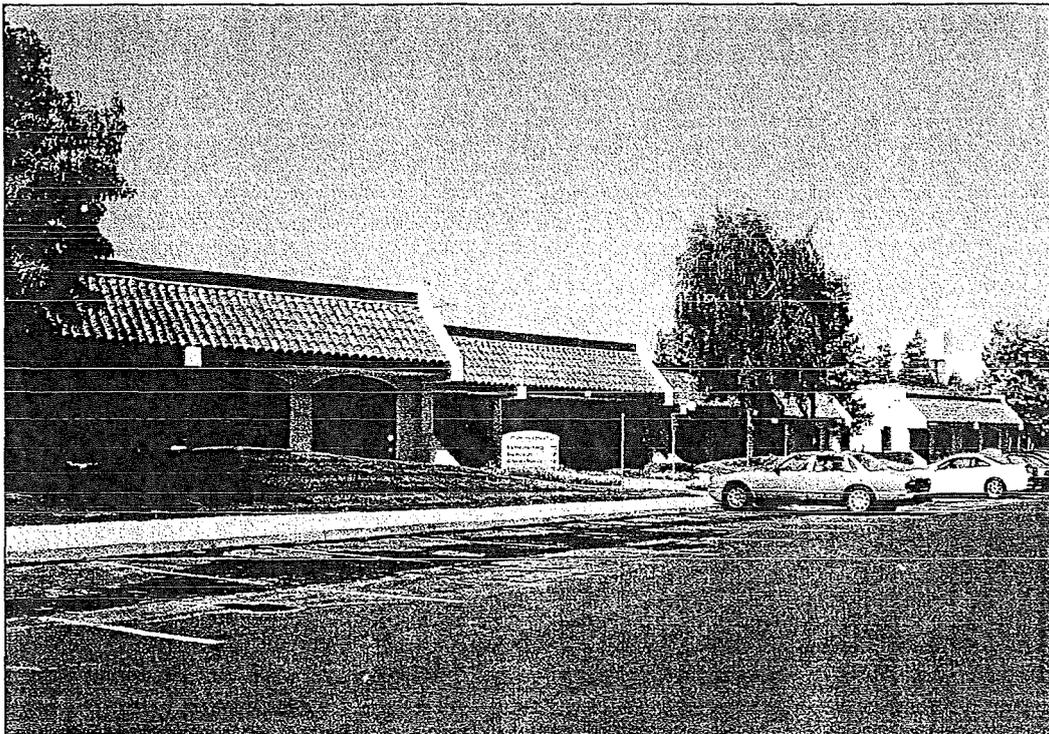


Photo 1 - View of the project site, looking northwest from Old Bayshore Road.

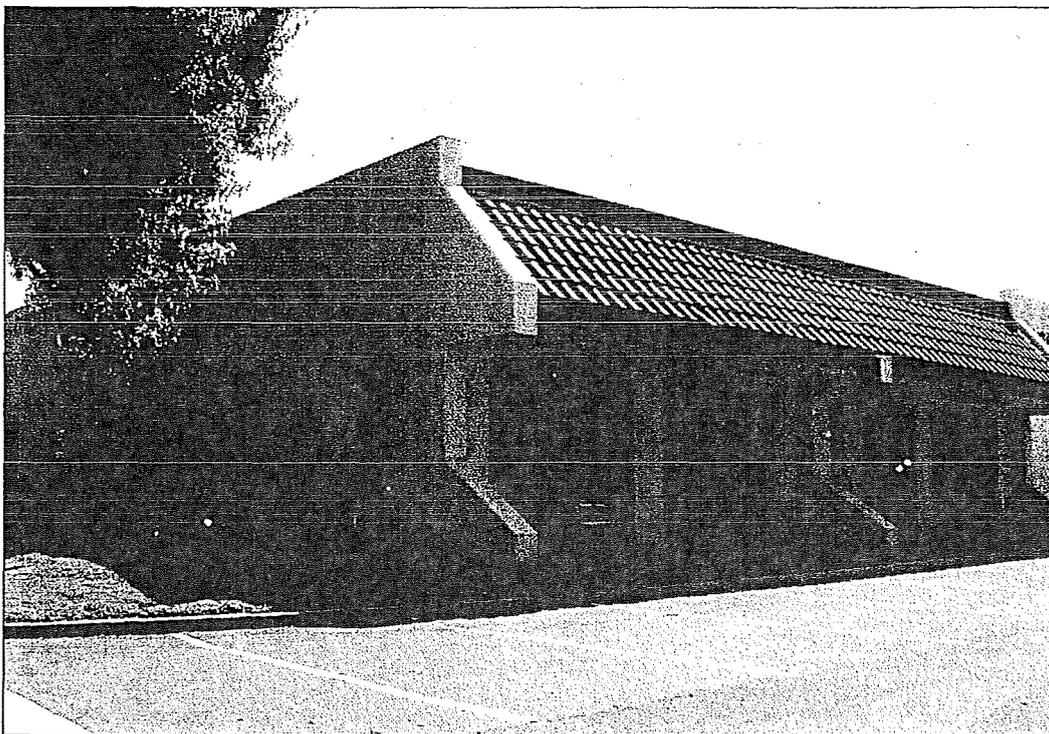


Photo 2 - View of the project site, looking southeast from northwest corner of the project site.

PHOTOS 1 AND 2

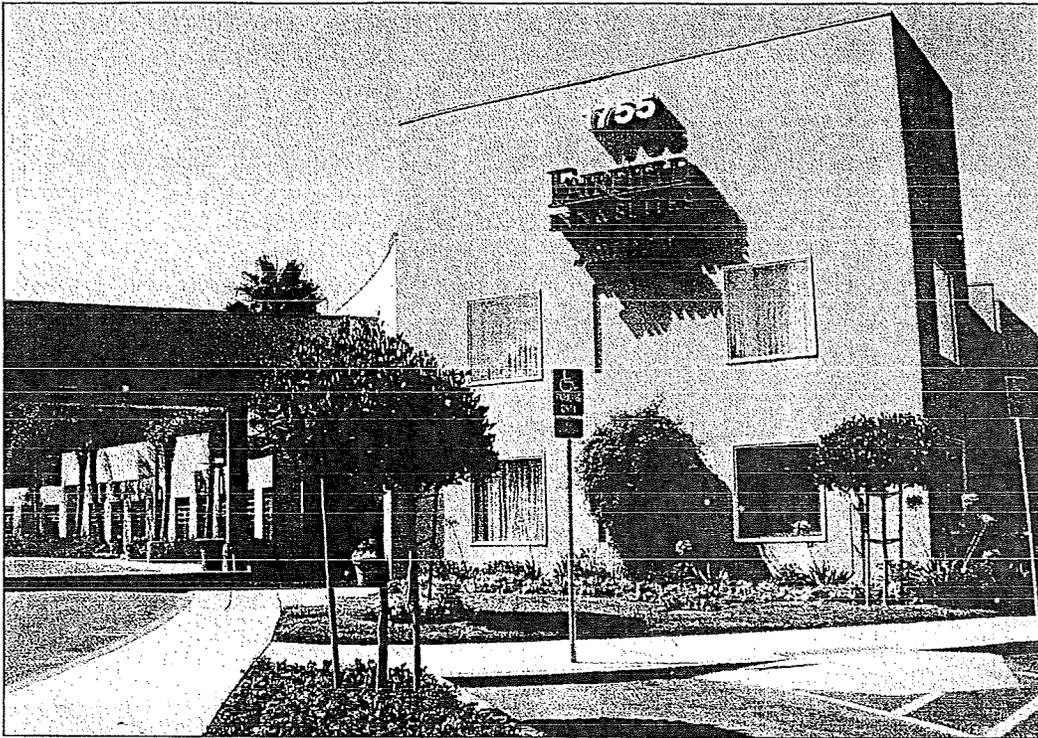


Photo 3 - View of the Fairfield Inn and Suites, looking west from Bayshore Frontage Road.

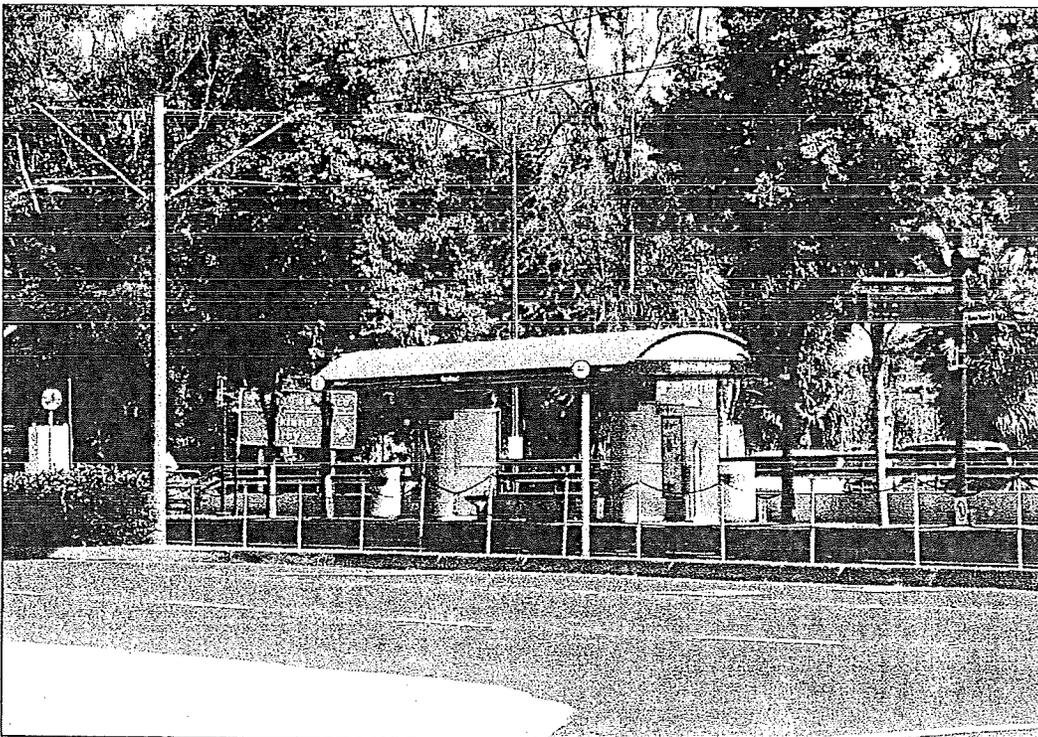


Photo 4 - View of the Metro Light Rail Station, looking northeast from Metro Drive.

PHOTOS 3 AND 4

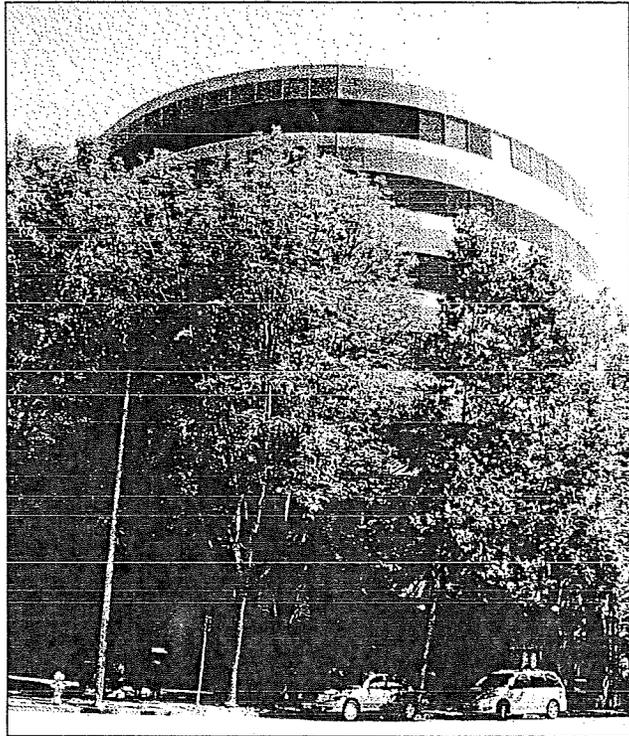


Photo 5 - View of the Metro Plaza office complex, looking north from Metro Drive.

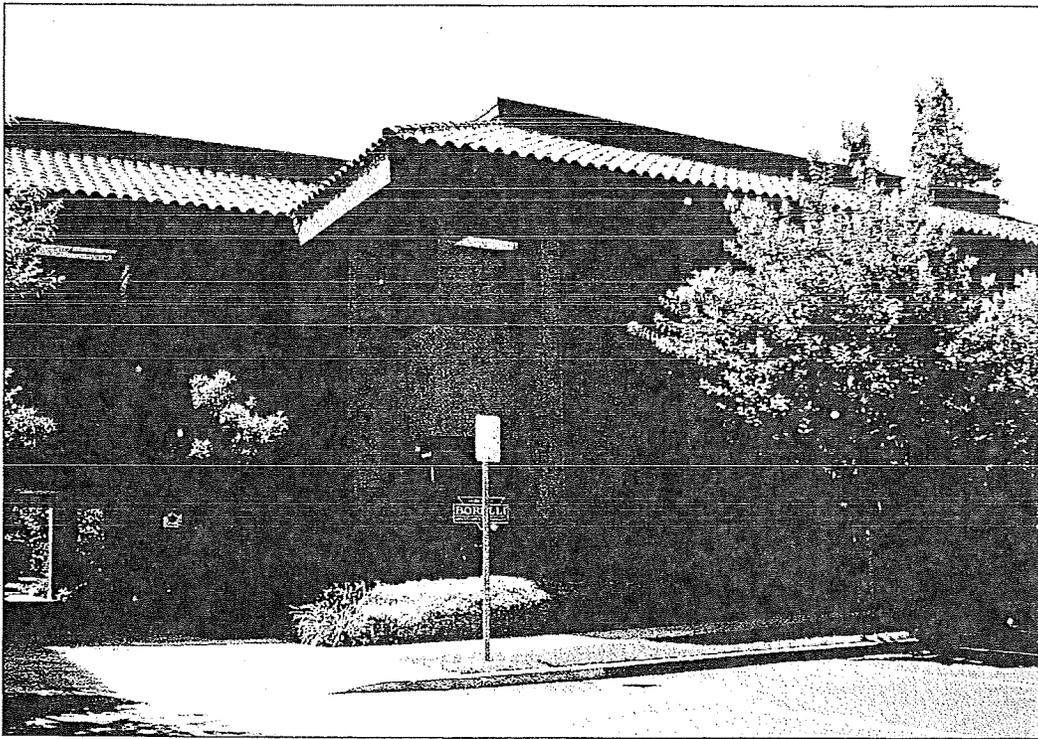


Photo 6 - View of the adjacent office buildings to the west of the project site, looking east from Technology Drive.

PHOTOS 5 AND 6

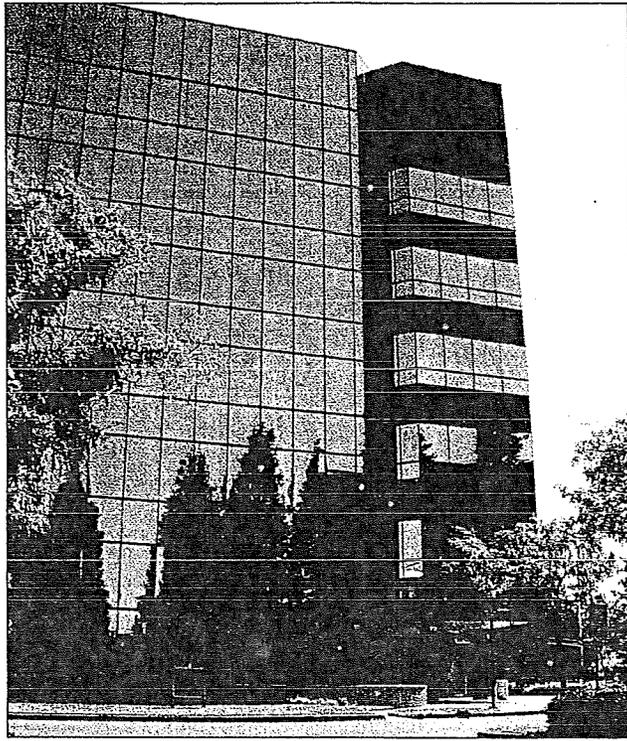


Photo 7 - View of the large office building to the west of the project site, looking east from the western boundary of the office property.



Photo 8 - View of the Doubletree Hotel, looking east from Technology Drive.

PHOTOS 7 AND 8



Photo 9 - View of the large office building north of the project site, looking southwest from northeast corner of the office property.

PHOTO 9

by surface parking and landscape trees (see Photo 6). South of these buildings are Technology Drive (a two-lane roadway), two small restaurants, and a seven story glass office building (see Photo 7). The project site is bordered on the west by Airport Parkway, which is a four-lane roadway with a landscaped median. West of Airport Parkway is the Doubletree Hotel and large office building. The Doubletree Hotel is a seven story hotel with floor to ceiling windows and balconies on each floor (see Photo 8). The large office building is a glass and stucco building that ranges from four to seven stories in height (see Photo 9).

4.1.2 Environmental Checklist and Discussion

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)
Would the project:						
1) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.1.2.1 Visual Impacts

The NSJ FPEIR concluded that with full build out under the North San José Area Development Policy, which includes the proposed project, the visual character of North San José would become more urban with bigger buildings and less open space. The visual difference between what would occur and what is currently in place, however, would not be a degradation of the visual character of the area.

Currently, the allowable building height for the project site is 150 feet (approximately 15 stories, assuming 10 feet per floor). The project proposes a General Plan Text amendment that would allow the building height on-site to be increased to 220 feet. While the proposed project would result in two towers that would be approximately 70 feet taller than what was assumed in the NSJ FPEIR, the conclusion would not change. The additional 70 feet would be significantly different in scale than the existing building, but the additional seven stories would not degrade the visual character of the area and would not block views of any scenic resources. In addition, the increase in building height will not result in visual intrusion into any private residences or private open space areas. Overall, the increase in height would make the project area more urban in nature, but would not significantly degrade the visual character of the neighborhood.

All projects, including the proposed project, will be evaluated for consistency with the City's adopted Residential and Industrial Design Guidelines and Zoning Ordinance as part of the design review process required for approval of Planned Development Permits. Furthermore, development of two 20-story residential towers on the project site will not block scenic views from any public vantage point.

The proposed project would not result in any new or more significant visual or aesthetic impacts than were described in the certified 2005 NSJ FPEIR.

4.1.2.2 Light and Glare Impacts

Lighting of the proposed project would increase the light in the project area. It was concluded in the certified 2005 NSJ FPEIR that significant light and glare impacts, including light spillover onto adjacent properties, would be reduced or avoided by compliance with the City's *Outdoor Lighting Policy* (4-3).

The proposed project would not result in any new or more significant light and glare impacts than were described in the certified 2005 NSJ FPEIR.

Standard Measure: The project proposes to implement the following standard measure to reduce or avoid light and glare impacts:

- 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 in parking areas.

4.1.3 Conclusion

The proposed project would not result in any new or more significant visual and aesthetic impacts than those previously identified in the NSJ FPEIR.

4.2 AGRICULTURAL RESOURCES

4.2.1 Setting

The north San José area was cultivated for over one hundred years for a variety of crops including orchards, field crops, and greenhouse-grown flowers. Presently, however, very little agriculture remains and all of the land within the project area has been designated for urban uses for over 30 years. There are no Williamson Act contract land remaining in the project area and the last remaining parcel of prime farmland in the north San José project area (Moitozo Ranch) was approved for development by the San José City Council in 1998. Since the approval, the majority of the ranch property has been developed. The small remaining parcel is still in cultivation, but its size and proximity to urban uses, particularly residential uses, has reduced its viability for long-term agriculture. In addition, the remaining agricultural land has existing entitlements that would allow its future development with residential and commercial uses. The NSJ FPEIR found that the remaining loss of agricultural land would not be a significant impact.

4.2.2 Environmental Checklist and Discussion

AGRICULTURAL 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

As discussed above, the project site is not agricultural land and is located within a developed urban area with only one small agricultural parcel nearby which has existing entitlements for development. The proposed project will not conflict with any existing zoning for agricultural use, conflict with a Williamson Act contract, or result in the conversion of existing farmland to non-agricultural use. Therefore, implementation of the proposed project specific development would not result in any new impacts on agricultural land and would not increase the severity of any agricultural impact previously identified in the NSJ FPEIR.

4.2.3 Conclusion

The proposed project would not result in any new or more significant impacts on agricultural land and agricultural resources than those previously identified in the NSJ FPEIR.

4.3 AIR QUALITY

4.3.1 Setting

There have been no violations in federal standards since publication of the NSJ FPEIR and violations of state ozone and PM₁₀ standards have been significantly reduced.

Bay Area 2005 Ozone Strategy

The Bay Area 2005 Ozone Strategy was adopted by the BAAQMD on January 4, 2006. The Bay Area 2005 Ozone Strategy updates VMT and other assumptions in the 2000 CAP related to the reduction of ozone in the atmosphere and serves as the current CAP for the Bay Area. The Bay Area 2005 Ozone Strategy is based upon *Projections 2003*, prepared by the Association of Bay Area Governments (ABAG), which was based upon the City's General Plan at that time. The City's General Plan has recently been updated with the approval of the NSJ FPEIR. The growth assumptions in the NSJ FPEIR, therefore, were not included in ABAG's *Projections 2003*. While the development of high density residential land uses close to job centers and along transit lines is consistent with the Bay Area 2005 Ozone Strategy, the proposed project would add residents to San José that were not reflected in ABAG's *Projections 2003*. Therefore, the proposed project would not be consistent with the Bay Area 2005 Ozone Strategy.

Sensitive Receptors

The BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (i.e., children, the elderly, the acutely ill, and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, child-care centers, retirement homes, convalescent homes, hospitals, and medical clinics. Sensitive receptors near the project site include nearby hotels.

4.3.2 Environmental Checklist and Discussion

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)
Would the project:						
1) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6

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)
Would the project:						
4) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6
5) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,6

4.3.2.1 Project Impacts

Implementation of the proposed project would contribute to emissions of ozone precursors and PM₁₀ as identified in the NSJ FPEIR. The NSJ FPEIR concluded that emissions from the North San José project (including the proposed development) would exceed the BAAQMD threshold of significance of 80 pounds per day for regional pollutants. The project design includes some of the following measures that were approved as part of the NSJ FPEIR (2006) and all of these measures will be required by the City as conditions of project approval:

- Provide bicycle lanes, sidewalks, and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas.
- Provide secure and conveniently placed bicycle parking and storage facilities for residents and retail customers.
- Provide neighborhood-serving shops and services within or adjacent to the proposed project.
- Allow only natural gas fireplaces, pellet stoves, or EPA-certified wood-burning fireplaces or stoves in residences. Conventional open-hearth fireplaces will not be permitted.
- Use electric lawn and garden equipment for landscaping.
- Provide direct, safe, attractive pedestrian access from project land uses to transit stops and adjacent development.

While these measures will help to reduce the emissions of regional pollutants from the proposed project, these measures and the emission reduction design features of the north San José project area are not sufficient to reduce the overall emissions to less than 80 lbs per day. As a result, the proposed project will contribute to the significant unavoidable air quality impact which was previously identified in the NSJ FPEIR.

4.3.2.2 Construction Impacts

As evaluated in the NSJ FPEIR construction activities include demolition of the existing buildings and grading of the site, which will generate dust and other particulate matter resulting in a significant temporary air quality impact. Because of the proximity of sensitive receptors (i.e., nearby hotels) dust control measures will be incorporated into the project.

Impact AQ-1: Demolition of existing improvement and construction of the proposed project would result in short-term air quality impacts associated with dust generation.

Mitigation Measures: The following mitigation measures, approved as part of the NSJ FPEIR, are proposed to be implemented during all phases of construction on the project site:

- MM AQ-1.1: Water all active construction areas at least twice daily.
- MM AQ-1.2: Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- MM AQ-1.3: Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- MM AQ-1.4: Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staffing areas at construction sites.
- MM AQ-1.5: Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- MM AQ-1.6: Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- MM AQ-1.7: Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- MM AQ-1.8: Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- MM AQ-1.9: Limit traffic speed on unpaved roads to 15 mph.
- MM AQ-1.10: Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- MM AQ-1.11: Replant vegetation in disturbed areas as quickly as possible.

4.3.3 Conclusion

The proposed project, with the implementation of the mitigation measures, would not result in any new air quality impacts or more significant air quality impacts than those previously identified in the NSJ FPEIR.

4.4 BIOLOGICAL RESOURCES

The following information is based on a tree survey prepared by *Deborah Ellis, Certified Arborist* in June 2006 (see Appendix A).

4.4.1 Setting

4.4.1.1 Existing Vegetation and Wildlife

The project site is located in a highly developed urban habitat. Based on the biotic habitats identified in the north San José area for the NSJ FPEIR, the habitat type on the project site is urban landscape.

The project site does not contain any native habitats that would provide for special-status plant and animal species.

4.4.1.2 San José Tree Preservation Ordinance

The City of San José Tree Removal Controls (San José City Code Section 13.31.010 to 13.32.100) protect all trees having a trunk that measures 17.8 inches in diameter (56 inches or more in circumference) at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage Tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy such heritage trees. The City of San José typically requires that all trees on a given project site be inventoried and categorized according to size, species, and condition prior to issuance of any approval or permit for construction of any improvements. There are no heritage trees on the project site.

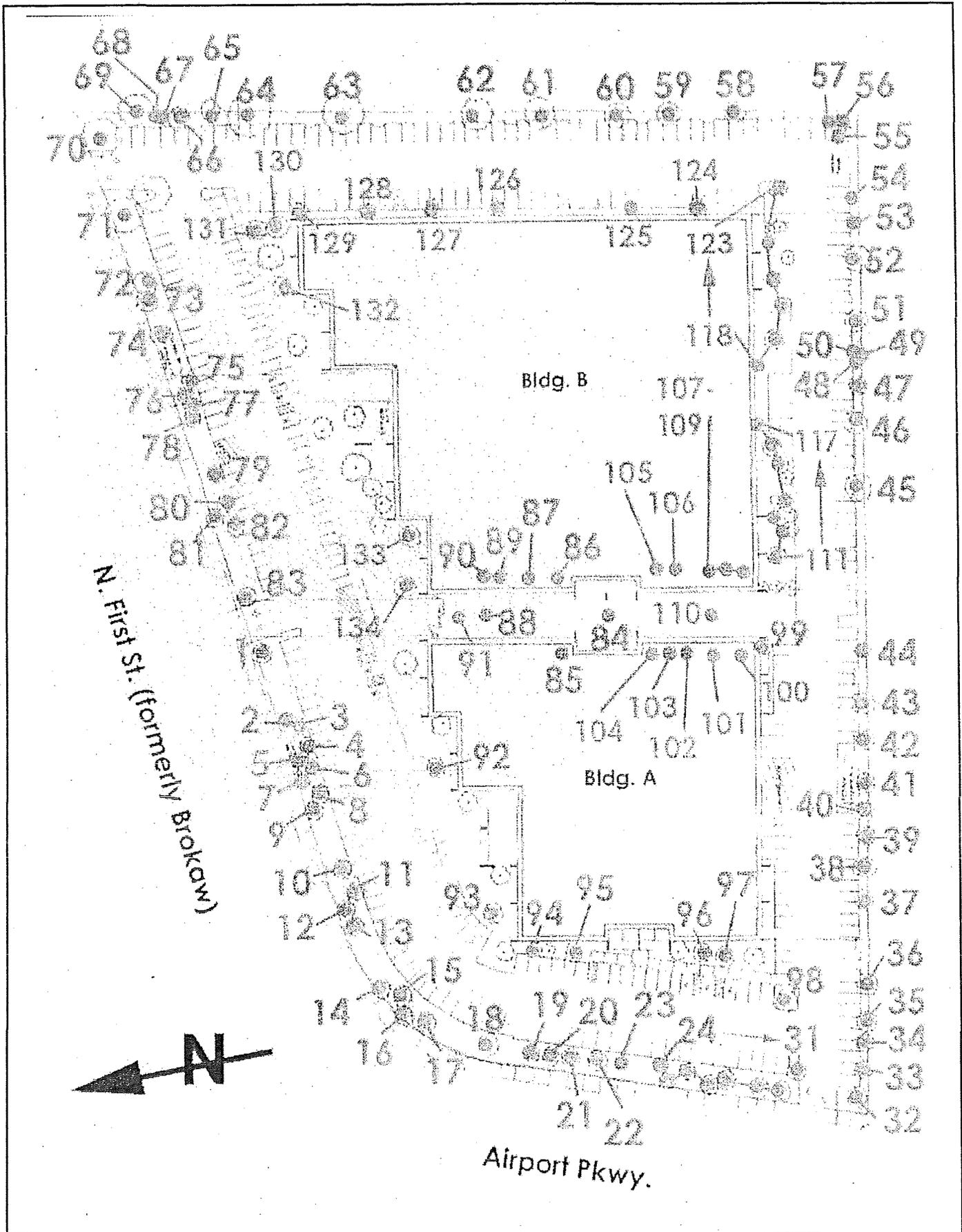
4.4.1.3 Existing Trees On-Site

The following table lists all the trees identified on the project site. Ordinance sized trees are designated in bold. A map showing the location of the trees is Figure 4.

Tree No.	Common Name	Species	Diameter ¹	Condition ²	
				Vigor	Structure
1	Sawleaf zelkova	<i>Zelkova serrata</i>	22.6	70	60
2	Coast redwood	<i>Sequoia sempervirens</i>	26.7	75	70
3	Coast redwood	<i>Sequoia sempervirens</i>	23.0	75	70
4	Coast redwood	<i>Sequoia sempervirens</i>	24.7	70	70
5	Coast redwood	<i>Sequoia sempervirens</i>	25.6	70	70
6	Coast redwood	<i>Sequoia sempervirens</i>	23.7	70	70
7	Coast redwood	<i>Sequoia sempervirens</i>	20.6	60	60
8	Coast redwood	<i>Sequoia sempervirens</i>	21.8	70	60
9	Sawleaf zelkova	<i>Zelkova serrata</i>	21.5	80	60

¹ Measured at 24 inches above grade.

² Vigor and structure are rated on a scale of 0-100 with zero being a dead tree and 100 being a perfect tree. Using this scale, 100 = excellent, 80 = good, 60 = fair, 40 = poor, and 20 = unacceptable.



TREE SURVEY MAP

FIGURE 4

**TABLE I Continued
Tree Survey**

Tree No.	Common Name	Species	Diameter	Condition	
				Vigor	Structure
10	Sawleaf zelkova	<i>Zelkova serrata</i>	20.6	80	40
11	Coast redwood	<i>Sequoia sempervirens</i>	25.4	80	80
12	Coast redwood	<i>Sequoia sempervirens</i>	22.6	75	70
13	Coast redwood	<i>Sequoia sempervirens</i>	25.0	75	70
14	Coast redwood	<i>Sequoia sempervirens</i>	25.3	90	85
15	Coast redwood	<i>Sequoia sempervirens</i>	22.3	60	60
16	Coast redwood	<i>Sequoia sempervirens</i>	21.8	70	70
17	Coast redwood	<i>Sequoia sempervirens</i>	29.9	80	70
18	Sawleaf zelkova	<i>Zelkova serrata</i>	20.8	80	50
19	Coast redwood	<i>Sequoia sempervirens</i>	20.7	80	80
20	Coast redwood	<i>Sequoia sempervirens</i>	21.9	80	80
21	Coast redwood	<i>Sequoia sempervirens</i>	24.6	70	70
22	Coast redwood	<i>Sequoia sempervirens</i>	24.9	70	70
23	Sawleaf zelkova	<i>Zelkova serrata</i>	19.4	75	70
24	Coast redwood	<i>Sequoia sempervirens</i>	25.3	70	70
25	Coast redwood	<i>Sequoia sempervirens</i>	18.0	60	60
26	Coast redwood	<i>Sequoia sempervirens</i>	19.8	60	60
27	Coast redwood	<i>Sequoia sempervirens</i>	19.0	60	60
28	Coast redwood	<i>Sequoia sempervirens</i>	20.8	70	60
29	Sawleaf zelkova	<i>Zelkova serrata</i>	18.0	70	60
30	Sawleaf zelkova	<i>Zelkova serrata</i>	21.0	68	50
31	Sawleaf zelkova	<i>Zelkova serrata</i>	15.3	70	60
32	Coast redwood	<i>Sequoia sempervirens</i>	27.0	80	50
33	Coast redwood	<i>Sequoia sempervirens</i>	14.0	80	50
34	Coast redwood	<i>Sequoia sempervirens</i>	16.8	60	60
35	Evergreen ash	<i>Fraxinus uhdei</i>	19.4	75	50
36	Ash species	<i>Fraxinus species</i>	16.2	70	60
37	Ash species	<i>Fraxinus species</i>	13.7	60	50
38	Evergreen ash	<i>Fraxinus uhdei</i>	22.6	75	60
39	Evergreen ash	<i>Fraxinus uhdei</i>	20.4	60	60
40	Evergreen ash	<i>Fraxinus uhdei</i>	19.8	60	60
41	Evergreen ash	<i>Fraxinus uhdei</i>	17.8	75	60
42	Evergreen ash	<i>Fraxinus uhdei</i>	15.6	75	60
43	Evergreen ash	<i>Fraxinus uhdei</i>	13.6	50	60
44	Evergreen ash	<i>Fraxinus uhdei</i>	23.6	70	50
45	Evergreen ash	<i>Fraxinus uhdei</i>	15.6	75	60
46	Evergreen ash	<i>Fraxinus uhdei</i>	16.1	80	60
47	Evergreen ash	<i>Fraxinus uhdei</i>	11.2	75	60
48	Coast redwood	<i>Sequoia sempervirens</i>	2.5	80	50
49	Coast redwood	<i>Sequoia sempervirens</i>	3.5	90	80
50	Coast redwood	<i>Sequoia sempervirens</i>	3.0	90	60
51	Evergreen ash	<i>Fraxinus uhdei</i>	17.6	50	60
52	Evergreen ash	<i>Fraxinus uhdei</i>	27.2	75	50
53	American sweet gum	<i>Liquidambar styraciflua</i>	1.5	60	60
54	Evergreen ash	<i>Fraxinus uhdei</i>	3.9	90	70
55	Coast redwood	<i>Sequoia sempervirens</i>	15.1	85	80
56	Coast redwood	<i>Sequoia sempervirens</i>	13.1	60	70
57	Coast redwood	<i>Sequoia sempervirens</i>	14.1	85	85

TABLE 1 Continued
Tree Survey

Tree No.	Common Name	Species	Diameter	Condition	
				Vigor	Structure
58	Red river gum	<i>Eucalyptus camaldulensis</i>	34.5	20	20
59	Evergreen ash	<i>Fraxinus uhdei</i>	14.1	85	60
60	Evergreen ash	<i>Fraxinus uhdei</i>	23.0	75	60
61	Evergreen ash	<i>Fraxinus uhdei</i>	19.4	80	60
62	Mexican fan palm	<i>Washingtonia robusta</i>	30.0	90	100
63	Red river gum	<i>Eucalyptus camaldulensis</i>	24, 26, 20, 22	20	28
64	Red river gum	<i>Eucalyptus camaldulensis</i>	22.0	20	20
65	Bottlebrush	<i>Callistemon citrinus</i>	11.3	80	70
66	Evergreen ash	<i>Fraxinus uhdei</i>	19.5	80	60
67	Holly oak	<i>Quercus ilex</i>	10.2, 9.5	80	50
68	Holly oak	<i>Quercus ilex</i>	10.9	85	50
69	Evergreen ash	<i>Fraxinus uhdei</i>	14.0	60	60
70	Sawleaf zelkova	<i>Zelkova serrata</i>	18.3	50	50
71	Sawleaf zelkova	<i>Zelkova serrata</i>	19.8	60	70
72	Coast redwood	<i>Sequoia sempervirens</i>	27.6	80	80
73	Coast redwood	<i>Sequoia sempervirens</i>	27.9	80	88
74	Coast redwood	<i>Sequoia sempervirens</i>	28.3	80	80
75	Coast redwood	<i>Sequoia sempervirens</i>	24.0	80	75
76	Coast redwood	<i>Sequoia sempervirens</i>	23.7	70	70
77	Coast redwood	<i>Sequoia sempervirens</i>	28.8	75	75
78	Sawleaf zelkova	<i>Zelkova serrata</i>	17.6	80	70
79	Coast redwood	<i>Sequoia sempervirens</i>	26.3	80	80
80	Coast redwood	<i>Sequoia sempervirens</i>	22.6	75	70
81	Coast redwood	<i>Sequoia sempervirens</i>	25.0	80	75
82	Coast redwood	<i>Sequoia sempervirens</i>	18.1	75	75
83	Sawleaf zelkova	<i>Zelkova serrata</i>	22.8	80	40
84	Purple leaf plum	<i>Prunus cerasifera</i>	4.1	75	50
85	Fern pine	<i>Podocarpus gracilior</i>	8.4	75	50
86	Saratoga laurel	<i>Laurus Saratoga</i>	4.8, 5.1, 5.3, 5.0	80	60
87	Saratoga laurel	<i>Laurus Saratoga</i>	4.5, 7.6, 6.3	80	60
89	Fern pine	<i>Podocarpus gracilior</i>	15.3	80	70
90	Fern pine	<i>Podocarpus gracilior</i>	11, 9	80	60
91	Purple leaf plum	<i>Prunus cerasifera</i>	4.5	80	60
92	American sweet gum	<i>Liquidambar styraciflua</i>	14.8	90	60
93	American sweet gum	<i>Liquidambar styraciflua</i>	12.2	90	50
94	American sweet gum	<i>Liquidambar styraciflua</i>	11.5	90	60
95	Ash species	<i>Fraxinus species</i>	7.5	70	50
96	American sweet gum	<i>Liquidambar styraciflua</i>	13.4	60	50
97	American sweet gum	<i>Liquidambar styraciflua</i>	16.3	90	60
98	Idaho locust	<i>Robinia pseudoacacia</i>	8.0	60	60
99	Fern pine	<i>Podocarpus gracilior</i>	3.4	90	70
100	Fern pine	<i>Podocarpus gracilior</i>	15.2	80	60
101	Fern pine	<i>Podocarpus gracilior</i>	9.6	70	50
102	Saratoga laurel	<i>Laurus Saratoga</i>	3.2, 3.5, 4.0	70	60
103	Saratoga laurel	<i>Laurus Saratoga</i>	4.8, 3.5, 3.8	85	50
104	Saratoga laurel	<i>Laurus Saratoga</i>	5.0, 3.8, 3.6	80	50

TABLE 1 Continued
Tree Survey

Tree No.	Common Name	Species	Diameter	Condition	
				Vigor	Structure
105	Fern pine	<i>Podocarpus gracilior</i>	12.0	80	68
106	Fern pine	<i>Podocarpus gracilior</i>	9.8	75	60
107	Saratoga laurel	<i>Laurus Saratoga</i>	6.0, 5.5, 5.5	75	50
108	Saratoga laurel	<i>Laurus Saratoga</i>	7.9, 6.3, 6.1	70	50
109	Saratoga laurel	<i>Laurus Saratoga</i>	8.6, 8.6, 7.0	80	50
110	Purple leaf plum	<i>Prunus cerasifera</i>	4.0	60	70
111	American sweet gum	<i>Liquidambar styraciflua</i>	15.0	50	50
112	American sweet gum	<i>Liquidambar styraciflua</i>	8.6	80	60
113	American sweet gum	<i>Liquidambar styraciflua</i>	11.3	60	50
114	American sweet gum	<i>Liquidambar styraciflua</i>	5.9	40	40
115	American sweet gum	<i>Liquidambar styraciflua</i>	15.4	90	70
116	American sweet gum	<i>Liquidambar styraciflua</i>	11.6	90	60
117	Fern pine	<i>Podocarpus gracilior</i>	3.1	60	60
118	Fern pine	<i>Podocarpus gracilior</i>	2.8	80	60
119	American sweet gum	<i>Liquidambar styraciflua</i>	12.4	85	60
120	American sweet gum	<i>Liquidambar styraciflua</i>	7.6	50	20
121	American sweet gum	<i>Liquidambar styraciflua</i>	16.4	85	50
122	American sweet gum	<i>Liquidambar styraciflua</i>	12.5	85	60
123	Idaho locust	<i>Robinia pseudoacacia</i>	5.2	50	68
124	American sweet gum	<i>Liquidambar styraciflua</i>	12.4	80	50
125	American sweet gum	<i>Liquidambar styraciflua</i>	11.1	90	60
126	American sweet gum	<i>Liquidambar styraciflua</i>	11.0	90	60
127	American sweet gum	<i>Liquidambar styraciflua</i>	12.0	90	50
128	American sweet gum	<i>Liquidambar styraciflua</i>	12.0	90	50
129	American sweet gum	<i>Liquidambar styraciflua</i>	11.5	90	50
130	American sweet gum	<i>Liquidambar styraciflua</i>	8.8	40	40
131	American sweet gum	<i>Liquidambar styraciflua</i>	13.1	50	50
132	American sweet gum	<i>Liquidambar styraciflua</i>	13.3	80	60
133	European white birch	<i>Betula pendula</i>	14.4	90	80
134	American sweet gum	<i>Liquidambar styraciflua</i>	11.3	90	50

The project site has a total of 42 Coast redwoods (approximately 31 percent of all the trees on-site). Of the 42 Coast redwoods, which are the only native trees on-site, 34 are ordinance size. The majority of the Coast redwood trees are located on the north and west property lines and are visible from Airport Parkway and Old Bayshore Road. The five largest trees on the project site (Nos. 17, 58, 62, 74, and 77) range in size from 28.3 to 34.5 inches in diameter. The largest tree on site, a non-native red river gum (No. 58), rated 20 for vigor and structure. Of the four remaining largest trees, three are Coast redwoods in fair to good condition and the other is a Mexican fan palm in excellent condition.

Of the 134 trees on the project site, only six trees (Nos. 58, 63, 64, 114, 120, and 130) were identified by the arborist as being in poor condition. Five of these trees scored 40 or below for vigor and structure and the sixth tree scored 50 and 20 respectively. Of the remaining 128 trees, 55 of the trees are ordinance size. Only 13 of these trees scored 80 or better for vigor and structure.

4.4.2

Environmental Checklist and Discussion

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)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3, 11
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.4.2.1 Trees

For the purposes of this analysis, it is assumed that all 134 trees on the project site will be removed because of the intensity of the development proposed. The NSJ FPEIR found that the loss of a large number of trees in the north San José project area would be a significant impact due to their ability to provide localized shading and refuge for birds and other fauna in the area.

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

Standard Measures: In accordance with City policy, the project will be required to implement the following mitigation and avoidance measures as conditions of approval:

Tree Removal

- The proposed project shall replace trees removed at the following ratios:

Table 2 Tree Replacement Requirements			
Diameter of tree to be Removed	Native	Non-Native	Minimum Size of Each Replacement Tree
17.8 inches or greater (56.0 Inches Circumference)	5:1 ³	4:1	24-inch box
12 – 17.8 inches (37.7 – 56.0 Inches Circumference)	3:1	2:1	24-inch box
Less than 12 inches (Less than 37.7 Inches Circumference)	1:1	1:1	15-gallon container

- In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:
 - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on 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 San José Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a Planned Development Permit.

Tree Preservation

- 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 retained trees 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 remaining trees, barrier fencing shall

³ X:X = tree replacement to tree loss ratio.

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 or 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.

4.4.3 Conclusion

The proposed project will not result in new biological impacts or more significant biological impacts than those previously identified in the NSJ FPEIR.

4.5 CULTURAL RESOURCES

An updated archaeological literature review was completed by *Basin Research Associates* in June 2006 for the project site. The purpose of the archaeological literature review was to obtain information regarding recorded historic and/or prehistoric archaeological sites in and around the project area, and evidence of previous archaeological field inspections of the area. A complete copy of this report is on file with the City of San José Department of Planning, Building and Code Enforcement.

4.5.1 Setting

A prehistoric and historic site record and literature search was completed at the Sonoma State University Northwest Information Center to determine if any known cultural resources are located on the project site. Additional reference materials were also consulted including the Bancroft Library at the University of California Berkeley and the archives of Basin Research Associates. No prehistoric or historic sites have been recorded on or adjacent to the project site. There are no documented cultural resources within 0.25 miles of the site.

The Native American Heritage Commission (NAHC) was contacted in regard to resources listed on the Sacred Lands Inventory. The NAHC stated that their record search of the sacred land file "failed to indicate the presence of Native American cultural resources in the immediate project area".

In addition to the record searches, a field review of the project site was conducted on June 6, 2006 to look for indicators of potential surface and/or subsurface archaeological materials. Due to the development currently on-site, the survey focused on exposed sediment within the landscape areas. Within the limited survey area, no evidence of prehistoric or historic archaeological resources was observed.

The project site was not identified in the NSJ FPEIR as a culturally sensitive location.

Based on City of San José building permits, the existing buildings on the project site were constructed in 1978 making them approximately 29 years old. The buildings are stucco and glass box frame construction buildings with no distinct architectural style, typical of single-story office buildings constructed in San José in the 1970s and 1980s (see Photos 1 and 2 on page 9). Due to the age and generic style of the buildings, the existing structures would not be considered eligible for historic status under CEQA. In addition, the buildings are not designated by the City of San José as historic resources.

4.5.2 Environmental Checklist and Discussion

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)
Would the project: 1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 13

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)
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 13
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 13
4) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 13

There are no known archaeological sites within the boundaries of the proposed project site and the site is located outside of areas of known archaeological sensitivity. Additionally, the site has been previously developed, with no cultural resources identified. As a result, it is not anticipated that implementation of the proposed project would have an impact on any cultural resources or human remains. No subsurface testing or archaeological monitoring is recommended. Because of the general archaeological sensitivity of Santa Clara County, however, there is a remote possibility that artifacts or remains could be uncovered during grading. If artifacts are disturbed during grading of the project site it would be a significant impact. Therefore, the proposed project shall implement the following avoidance measures:

Standard Measures: In accordance with City policy, the project will be required to implement the following mitigation and avoidance measures as conditions of approval:

- In the event any significant cultural materials are encountered, all construction within a radius of 50 of the find would be halted, the Director of Planning, Building and Code Enforcement would be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.⁴
- If human remains are discovered, the Santa Clara County Coroner's office will be notified. The coroner would determine whether or not the remains are Native American. If the coroner determined that the remains are no subject to his authority, he would notify the Native American Heritage Commission and would attempt to identify the "most likely" descendants of the deceased.
- If the Director of Planning, Building and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted.

⁴ Significant cultural materials include but are not limited to: aboriginal human remains, chipped stone, groundstone, shell and bone artifacts, concentrations of fire-cracked rock, ash and charcoal, shell, bone, and historic features such as privies or building foundations.

4.5.3

Conclusion

The proposed project will not result in new cultural resources impacts or more significant cultural resources impacts than those previously identified in the NSJ FPEIR.

4.6 GEOLOGY AND SOILS

The following discussion of the geologic features, soils, and seismic conditions of the proposed site is based on the Cooper-Clark *Geotechnical Investigation for the City of San José Sphere of Influence* (1974), the U.S. Department of Agriculture, Soil Conservation Service, *Soils of Santa Clara County*, 1968, and a geotechnical feasibility investigation prepared by *Lowney Associates* in September 2005 (see Appendix B).

4.6.1 Setting

Liquefaction

Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength during seismic events. Loose, water-saturated soils are transformed from a solid to a liquid state during ground shaking. The project area is located within a liquefaction hazard zone, as identified by the State of California Seismic Hazard Zones map. Ground water levels in North San José are at times within five feet of the ground surface. Groundwater levels on the project site have been measured at 8.5 feet below the ground surface. Potentially liquefiable soils are present within the North San José area and most of the area is considered highly susceptible to liquefaction. Soil borings on the project site, however, determined that there is approximately 19 feet of non-liquefiable soil below the ground surface of the project site. The geotechnical analysis concluded that 19 feet of non-liquefiable soil was sufficient to prevent ground failure resulting from liquefaction.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such as a steep bank of a stream channel. Historical accounts indicate that lateral spreading has occurred along Coyote Creek near SR 237. In the vicinity of the SR 237 bridge over Coyote Creek, the ground failure zone from the 1906 earthquake was estimated to extend approximately 300 meters (984 feet) west of the creek. The project site is located within 1,700 feet of the Guadalupe River and is more than 1.2 miles from Coyote Creek. The geotechnical report concluded that there was a low probability for lateral spreading because of the distance to the Guadalupe River.

4.6.2

Environmental Checklist and Discussion

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)
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.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4 7,9
b) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4 7,9
d) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4 7,9
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4 7,9
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4 7,9
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,4 7,9

The project site includes moderately expansive soils, which may expand and contract as a result of seasonal or man-made soil moisture conditions. Expansive soil conditions damage structures and improvements on the project site. The site is also located in a seismically active region and, therefore, strong ground shaking is expected during the lifetime of the proposed project. While no active faults are known to cross the project site, groundshaking on the site could damage buildings and threaten the welfare of future residents.

Geologic conditions on the project site will require that the proposed structures be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4. Possible geologic and soils impacts resulting from conditions on the site can be mitigated by utilizing standard engineering and construction techniques. With incorporation of these measures the project will not expose people or property to significant impacts associated with the geologic conditions of the site. In addition, the project will not be exposed to slope instability, erosion, or landslide related hazards, due to the flat topography of the site.

Implementation of the proposed project specific development would not result in any new or more significant geological impacts than were previously identified in the NSJ FPEIR.

Impact GEO-1: Construction of high-density residential buildings on soils susceptible to seismic ground shaking, expansive surfaces, and high water table levels could expose future residents to significant geological hazards and result in significant structural damage.

Mitigation Measures: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR to be required of future residential development in North San José and will be required to be implemented as conditions of approval:

MM GEO-1.1: Design and construct buildings in accordance with a design-level geotechnical investigation prepared for the project site, which identifies the specific design features that would 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: 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.

4.6.3 Conclusion

With implementation of the proposed mitigation and conformance with the Uniform Building Code, the project will have a less than significant geologic impact and would not result in any new or more significant geological impacts than were previously identified in the NSJ FPEIR.

4.7 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon a Phase I Environmental Site Assessment prepared by *Lowney Associates* in September 2005, a Vicinity Hazardous Materials Users Survey prepared by *Belinda P. Blackie* in June 2006, and an expanded Vicinity Hazardous Materials Users Survey also prepared by *Belinda P. Blackie* in October 2006. The purpose of the user surveys was to identify facilities in the project vicinity that could impact the project site if an accidental hazardous materials release were to occur. Copies of the reports are located in Appendixes C, D, and E of this document, respectively.

4.7.1 Setting

4.7.1.1 Site Conditions

Based on aerial photographs and topographic maps of the project area, the project site was occupied by an orchard from 1939 to 1956. Prior to 1939, the site was likely agricultural land or undeveloped. From 1956 to 1973 the orchard was no longer present and the site appears to have been fallow agricultural land. A shed/barn is shown in the southeast corner of the site. From 1973 to 1979 the site appears to have been vacant. Based on building department records, the two existing office buildings and surface parking lot were constructed in 1978.

On-Site Conditions

Hazardous Materials Storage and Use

No information was found indicating that significant quantities of hazardous materials have historically been used or stored at the project site. The only known occupant to have used hazardous materials on-site was IBM Corporation, which was listed as a small quantity generator in the EDR RCRA-SQG database. No spills or releases were documented for IBM Corporation at this site.

Currently the only chemicals stored and used on-site are routine janitorial and maintenance supplies.

Asbestos and Lead Based Paint

A limited asbestos survey prepared by Law Engineering in 1989 found asbestos in the nonfriable floor tile and mastic. Due to the age of the buildings, it is possible that other sources of asbestos are present in the buildings.

Lead was banned as a paint additive in 1978 by the Consumer Product Safety Commission. Due to the age of the buildings it is possible that lead based paint was used during construction.

Agricultural Land Use

Because of the historical agricultural use, pesticides (such as DDT and arsenic) were likely used on site during normal farming operations and it is possible that the soil is contaminated with pesticides. There is, however, no indication of any uncontrolled release of pesticides on the site.

4.7.1.2 Off-Site Sources Impacts

The following discussion addresses the possibility that quantities and types of hazardous materials

stored and used at facilities near the project site could be accidentally released. This discussion was based on information that is available in the public record. The consultants who prepared the reports in Appendices C, D, and E did not have access to confidential information or the operational files of any of the nearby businesses because they have not been made public.

The screening level risk evaluation that was done for Hill Brothers Chemical Company was done by consultants who did have access to the details of the Hill Brothers facility and processes. The modeling done for the Hill Brothers, therefore, reflects a "most likely release" scenario based on those specifics. Because the consultants who prepared the reports for this Initial Study did not have access to the current details of the nearby facilities that also use and store hazardous materials, the analysis done for the other sites (including modeling) instead reflects a maximum impact scenario.⁵

Based upon available information, no hazardous material incidents have been reported in the site vicinity that would likely significantly impact the site. As is typical of many commercial/industrial areas, several facilities in the vicinity are hazardous materials users. If accidental releases occur at some of these nearby facilities, contamination could impact the project site, depending on the effectiveness of cleanup efforts.

A vicinity hazardous materials users survey was completed to identify facilities in the project area that use hazardous substance and to evaluate impacts to the proposed residential development if an accidental release were to occur. A visual survey of the businesses within approximately 0.5 miles of the project site was completed to identify facilities likely to use, handle, and/or store significant quantities of hazardous substances. The addresses were then researched in the City and County regulatory databases. The regulatory agency database report has no record of hazardous materials spills or releases that could significantly impact the project site. A previously reported fuel leak did occur at the Shell station located at 225 Airport Parkway (approximately 0.25 miles from the site). As a result, six wells were installed on the project site as part of the fuel leak investigation. No contaminants were detected in the wells and after the investigation was completed the six wells were destroyed in accordance with Santa Clara Valley Water District guidelines.

Hazardous Substance Facilities

There are 65 facilities within one-half mile of the project site that use, handle, and/or store hazardous substances, 57 of which are unlikely to pose a significant threat to future residents on the project site if a release were to occur, based on the type and quantity of materials present, and combined with the location, condition, and type of storage. For 10 of these facilities, this conclusion was based on Hazardous Materials Business Plans (HMBPs) (which were all more than five years old but were the most recent versions available). The remaining eight facilities use, handle, and/or store volumes and types of chemicals that, if released, could pose a significant health risk to future residents. Of these eight facilities, three are registered hazardous gas facilities located within one mile of the project site. The facilities are Hill Brothers Chemicals located at 410 Charcot Avenue, Universal Semiconductor located at 1925 Zanker Road, and Innovion located at 2121 Zanker Road.

⁵ Information that is not available to the consultants about existing facilities include actual amounts of hazardous materials currently present, operations and equipment details, on-site design, degree of consistency with previous plans, etc.

4.7.2

Environmental Checklist and Discussion

HAZARDS AND HAZARDOUS MATERIALS						
	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as the Approved Project	Less Impact than the Approved Project	Information Source(s)
Would the project:						
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,8 12,14

4.7.2.1 Contaminated Soil Impacts

As discussed in the setting section, no known hazardous materials releases have contaminated the soil on the project site. The nearest documented release is the fuel leak at a nearby gas station, which did not affect the project site.

It is known that the project site was used for agricultural production from at least 1939 to 1956. During this time, it is likely that pesticides were used as part of the normal agricultural operations. While it is common to find arsenic, lead, and DDT residue in the soil in Santa Clara County from historic farming operations, it is unusual to find these pollutants in quantities that exceed the Preliminary Remediation Goals (PRGs) thresholds⁶ established by the California Environmental Protection Agency (Cal-EPA) for residential soils.

Because of the limited number of years that the site was farmed and the relatively small size of the parcel, it is reasonable to assume that only small quantities of pesticides were used on the site. Furthermore, because of the amount of time that has elapsed since the orchards were located on-site and the likelihood of fill material on-site from construction of the office buildings, if there are still chemicals present in the native soil they would not be in high enough concentrations to cause a significant impact to persons exposed to the soil.

As stated above, it is unlikely that pesticides would be found on-site in concentrations above the established PRG thresholds. Nevertheless, the site could contain hazardous materials in the soil and groundwater that have not yet been identified. Possible contamination may be encountered during earthwork activities. Therefore, the following avoidance measures will be implemented to ensure that construction workers will not be significantly impacted by contaminated soils.

Avoidance Measure: The project proposes to implement the following avoidance measures:

- Upon demolition, analytical testing of soil and groundwater shall be conducted for hazardous substances (including heavy metals, arsenic, chromium, petroleum hydrocarbons, and pesticides). If results indicate the presence of such materials in excess of applicable health standards, a health and safety plan which includes site remediation measures shall be prepared and implemented to reduce contamination to acceptable levels for residential uses and assure the safety of construction workers, in accordance with state and local regulatory requirements.
- If the Phase II finds contaminant levels above PRG thresholds, a soil management plan (SMP) shall be developed to establish management practices for construction worker health and safety during earthwork activities at the project site. The SMP shall address appropriate protocols for handling and/or disposing the soil that shall be encountered during construction. The SMP will be submitted to San José's Environmental Services Department prior to issuance of grading permits.

4.7.2.2 Off-Site Hazardous Materials Impacts

As stated above, there are eight facilities within one mile of the project site that could pose a health risk to future residents if a release were to occur. A number of local, State, and Federal regulations address the prevention of accidental releases of chemicals that can affect human health. Within the City of San José, a Hazardous Materials Business Plan is generally required of any facility that

⁶ PRG Thresholds are as follows: Arsenic = 22 mg/kg, Lead = 400 mg/kg, DDT = 2.4 mg/kg.

generates any quantity of hazardous waste or that handles hazardous materials in amounts greater than 55 gallons for liquids, 500 pounds for solids, and 200 cubic feet for compressed gases. Toxic gas storage on industrial and commercial sites must also comply with San José Municipal Code Chapter 17.78 (Toxic Gas Ordinance) and the California Fire Code. Engineering controls such as secondary containment, automatic shut-off, seismic shut-off, emergency alarms, gas detection and signage may be required depending on the class and quantity of gas stored.

The screening level evaluation found that the project site would not be impacted by Universal Semiconductor or Innovion under the maximum impact release scenario⁷. The evaluation did find, however, that the project site could be impacted by Hill Brothers Chemical Company (located 0.74 miles from the project site) under a maximum impact release scenario. The Screening Level Risk Evaluation determined that the toxic endpoint⁸ of a release from Universal Semiconductor or Innovion would not reach the project site and would not have an impact on the project site. The Screening Level Risk Evaluation found that releases from the remaining five facilities (Brocade Communication Systems, California Water Service Company, Hertz Rental Car, Sanmina-SCI, and the Kodak Building) did not have significant release scenarios that would impact the project site and were not evaluated further.

Hill Brothers Chemical Company stores anhydrous (solid form, i.e., without water) and aqueous (liquid form, i.e., with water) ammonia on-site which, if released, could impact the health of people located within the release area. Because of the significant quantity of the ammonia stores on-site, Hill Brothers Chemical Company is listed as a California Accidental Release Prevention (CalARP) Program facility by the Santa Clara County Environmental Health Department. The CalARP program release scenarios are modeled based on the most likely release. Under the CalARP model, a release of anhydrous ammonia⁹ would travel approximately 0.20 miles and a release of aqueous ammonia¹⁰ would travel approximately 0.10 miles. Neither release would reach to within one-half mile of the project site and would not impact future residents of the project site.

While a worst case release could affect the project site, the likelihood of a worst case release occurring is significantly less than the likely release scenario. In addition, the implementation and enforcement of local, State, and Federal regulations regarding the use, storage, and transport of hazardous materials reduces the likelihood and significance of impacts to off-site land uses, in the event of an accidental release. This is why state law uses the "likely release" scenario. Therefore, based on the most likely release scenario and the regulations governing hazardous materials, nearby hazardous materials facilities will have a less than significant impact on the proposed project.

4.7.2.3 Asbestos and Lead-Based Paint Impacts

Previous investigations of the buildings on the project site have identified asbestos-containing materials (ACMs) on-site. Demolition of these buildings would occur prior to redevelopment with high density residential uses. NESHAP guidelines require that all potentially friable ACM be removed prior to building demolition that may disturb the ACM.

⁷ The maximum impact or worst case release scenario results are in the Santa Clara County Department of Environmental Health files and are based on the federal Risk Management Plan (RMP) methodology

⁸ The toxic endpoint is the farthest distance from the toxic release location that the contaminant will have a negative impact on humans.

⁹ Assumes a total release of 26,160 pounds at 436.6 pounds per minute for 60 minutes.

¹⁰ Assumes a total release of 4,200 pounds at 70 pounds per minute for 60 minutes.

Demolition of buildings containing lead-based paint could create dust at concentrations which would expose workers and nearby receptors to potential health risks. State regulations require that air monitoring be performed during and following renovation or demolition activities at sites containing lead-based paint. Appropriate modifications to renovation/demolition activities would be required if airborne lead levels exceed the current Federal OSHA action level of 30 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). If the lead based paint is peeling, flaking, or blistered, it would need to be removed prior to demolition. It is assumed that such paint will become separated from the building components during demolition activities. As a result, it must be managed and disposed of as a separate waste stream. If the lead based paint is still bonded to the building materials, its removal is not required prior to demolition. It will be necessary, however, to follow the requirements outlined by Cal/OSHA Lead in Construction Standard, Title 87, California Code of Regulations (CCR 1532.1) during demolition.

Impact HAZ-1: Implementation of the proposed project will result in the demolition of buildings containing ACMs and possibly lead-based paint. Buildings demolished in conformance with federal and state laws and regulations will not expose construction workers and/or the public to health impacts from airborne contaminants, including lead-based paint and asbestos

Mitigation Measures: Based on existing laws and regulations, the following mitigation/avoidance measures would be incorporated into the project to reduce hazardous materials impacts:

MM MAZ-1.1: All demolition activities would be undertaken according to OSHA and EPA standards to protect workers, and off-site occupants from exposure to asbestos and lead based paint. Specific measures include air monitoring during demolition of existing buildings and construction activities.

MM HAZ 1.2: Building materials classified as hazardous materials would be disposed of in conformance with federal, state, and local laws.

4.7.3 Conclusion

Implementation of the proposed project would have a less than significant hazardous materials impact on future residents from on-site and off-site contaminants. (Less Than Significant Impact)

With implementation of the proposed mitigation measures, impacts from Asbestos and lead based paint will be reduced to a less than significant level. (Less Than Significant with Mitigation)

4.8 HYDROLOGY AND WATER QUALITY

4.8.1 Setting

4.8.1.1 Flooding

The two major waterways in the project area are the Guadalupe River and Coyote Creek. The project site is located approximately 0.37 miles east of Guadalupe River and approximately 1.2 miles west of Coyote Creek. Based on the Federal Emergency Management Agency's Flood Insurance Rate Maps, the project site is located within *Zones AO and AH*. Flood Zones AO and AH are both defined as areas of shallow flooding where depths are between one and three feet. The U.S. Army Corps of Engineers (Corps), in conjunction with the Santa Clara Valley Water District (SCVWD), is constructing a flood protection project for the Guadalupe River from I-880 south to I-280. The Guadalupe River Park and Flood Protection project will provide 100-year flood protection for the area between the Guadalupe River and Coyote Creek (which includes the project site) due to spills from the Guadalupe River. The first phase from I-880 to Coleman Avenue has been completed. Flood control facilities in the downtown segment of the Guadalupe River project were completed in December 2004.

1987 North San José Floodplain Management Study

Development in the North San José area must conform to the City's floodplain management ordinance as amended (February 2006). The ordinance requires all new construction or substantial improvement of existing structures to have the lowest finished floor elevations above the existing 100-year flood elevation as shown on the Flood Insurance Rate Maps.

4.8.1.2 Storm Drainage System

The project site is served by a 48-inch storm drain line. Currently 92 percent of the project site is covered by impervious surfaces.

4.8.1.3 Ground Water

The depth to groundwater on the project site is estimated to be 8.5 feet, based on a previous geotechnical analysis of the site. Groundwater in north San José occurs in a complex pattern of aquifers at varying depths. Generally, groundwater levels are highest near the major waterways (Guadalupe River and Coyote Creek).

4.8.1.4 Water Quality

The federal legislation governing water quality is the Clean Water Act, as amended by the Water Quality Act of 1987. The U.S. Environmental Protection Agency (EPA) is the federal agency responsible for water quality management nationwide.

The State of California's Porter-Cologne Water Quality Control Act provides the basis for water quality regulation within California; the Act assigns primary responsibility for the protection and enhancement of water quality to the State Water Resources Control Board (SWRCB), and the nine regional water quality control boards. The SWRCB provides state-level coordination of the water quality control program by establishing state-wide policies and plans for the implementation of state and federal laws and regulations. Each Regional Water Quality Control Board (RWQCB) adopts and

implements a water quality control plan ("Basin Plan") that recognized the unique characteristics of each region with regard to natural water quality, actual and potential beneficial uses, and water quality problems. The RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements to control water quality and protect beneficial uses.

The SWRCB has implemented an NPDES general construction permit for the Santa Clara Valley. For properties disturbing one acre or more, a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) must be prepared prior to start of construction. Construction activity subject to this permit includes clearing, grading, and disturbances to the ground such as stockpiling or excavation. Subsequent to implementation of the general construction permit, the San Francisco Bay RWQCB issued a Municipal Stormwater NPDES Permit to the municipalities in Santa Clara Valley, the County of Santa Clara, and the SCVWD as co-permittees. The Santa Clara Valley Urban Runoff Pollution Prevention Program assists the co-permittees in implementing the provisions of this permit.

In October 2001, the RWQCB approved an amendment to the NPDES Permit Number CAS 029718, Provision C.3. The amendment to Provision C.3. includes new stormwater discharge requirements for new development and redevelopment. For development within the City of San José, implementation of the NPDES MS4 Permit requirements will be in accordance with the City of San José's ordinances, policies, and other City, local, state, and federal requirements.

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) and Treatment Control Measures (TCMs) to the maximum extent practicable. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

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

The City of San José's Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Projects that create or replace less than one acre of impervious surface or are located in watersheds greater than or equal to 90 percent build out are not required to comply with Policy 8-14.

The proposed project is currently located within an area which is exempt from Policy 8-14 due to the build out of the watershed. The project must, however, comply with Policy 8-14 as it is applicable at the Development Permit stage.

4.8.2

Environmental Checklist and Discussion

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)
Would the project:						
1) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
6) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,5
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3,5
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

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)
Would the project:						
10) Be subject to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.8.2.1 Flooding

As stated in the NSJ FPEIR, the project site is located in an area of San José subject to periodic flooding that could expose people or structures to significant risks which is considered a significant impact. The existing site elevation is approximately 37 and the flood plain base elevation is 36. Because the project site is in a 100-year floodplain with maximum flood depths of three feet, the first finished floor elevation of the proposed structures must be a minimum of 40. The project proposes to build up the ground surrounding the proposed buildings above the flood plain to an elevation of 39.5. As a result, the first finished floor with residential uses will be above the maximum 100-year flood levels. The project, however, proposes one level of below grade parking in each tower. In order to avoid flooding on the lower parking levels, the project proposes to design parking garage entrances so that the driveways are above the maximum 100-year flood level and angled so that water would drain away from the buildings and not enter the lower parking levels.

The proposed project has been designed to comply with the City of San José Floodplain Management Ordinance and will not result in a significant flooding impact.

4.8.2.2 Drainage

There is a recognized need for storm drainage improvements within the north San José area because the existing system does not meet the City standard to provide drainage for the 10-year storm event. As stated above, the project site is currently 92 percent impervious. With implementation of the proposed project, the amount of impervious surfaces on the project site would drop approximately 18 percent. The reduction in impervious surfaces will allow more water to be absorbed on-site and reduce the amount of stormwater run-off entering the storm drainage system. Therefore, the proposed project will have a less than significant impact on the capacity of the existing storm drainage system.

4.8.2.3 Water Quality

Construction Impacts

Construction of the proposed project would incrementally increase pollutant loads due to grading and construction activities (i.e., demolition of the existing buildings, removal of pavement, and construction of new structures). Demolition and construction activities would temporarily increase the amount of debris on-site, and grading will increase erosion and sedimentation that could be carried by runoff into natural waterways, which will increase sedimentation impacts to the Guadalupe River and San Francisco Bay.

As stated in the NSJ FPEIR, increased contaminants in stormwater runoff from construction activities could significantly degrade the water quality of Guadalupe River and, in turn, degrade the aquatic habitat of the river. Degradation of the aquatic habitat would reduce the number and diversity of aquatic invertebrate species and terrestrial invertebrates that prey on aquatic organisms.

Impact HYD-1: Construction activities, including grading and earthmoving, could result in adverse impacts to the water quality of the Guadalupe River and San Francisco Bay.

Mitigation Measures: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and will be required to be implemented as conditions of approval:

MM HYD-1.1: Compliance with the NPDES General Construction Activity Stormwater Permit administered by the Regional Water Quality Control Board. Prior to future construction or grading for project with land disturbance of one acre or more, applicants shall 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: Comply with the City's Grading Ordinance.

Post Construction Water Quality and Runoff

Operation of the project will result in the same types of stormwater runoff pollutants as the existing development. Street and parking lot runoff often carries grease, oil, and trace amounts of heavy metals into natural drainages. Runoff from landscaping can carry pesticides, herbicides, and fertilizers. Although the amounts of these pollutants ultimately discharged into the waterways are unknown, over time they could be substantial.

Implementation of the proposed project will decrease the amount of runoff and pollution flowing into the storm drain system. However, the Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) Municipal NPDES stormwater permit requires that all new development projects reduce the pollutant load in project site runoff compared to the current site conditions. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to incorporate Best Management Practices for non-point pollution control in the new development area. These measures include:

- Installing bioswales in new landscape and surface parking areas to treat runoff prior to discharge to the stormwater system;
- Installation of landscaping that will facilitate the infiltration of stormwater;
- Use of landscape species that minimize irrigation, runoff, pesticide and fertilizer applications;
- Design landscape areas to be lower in elevation than surrounding paved areas;

- Planting new trees within 30 feet of impervious surfaces;
- Use efficient irrigation systems to minimize runoff;
- Stormwater catch basins will be stenciled to discourage illegal dumping;
- Use microretention techniques, such as tree well filters in parking and landscaped areas;
- Installation of oil/water separators in parking structures, if required/allowed;
- Cover dumpsters and other storage areas and/or protect by a berm or curb;
- Use source control best management practices (in vehicle areas, roofs, gutters, downspouts, dumpster/trash areas, floor drains, elevator shaft drains, air conditioning condensate, and outdoor material storage, etc.);
- Maintenance of landscaped areas as necessary to maintain soil structure and permeability;
- Site maintenance, including routine catch basin cleaning; and
- Maintenance of landscaping with minimal pesticide use, including landscape maintenance techniques listed in the Fact Sheet on Landscape Maintenance Techniques for Pest Reduction prepared by the Santa Clara Valley Urban Runoff Pollution Prevention Program.
- Landscape designs for stormwater treatment (including bio-swales and landscape islands in the parking lots) that meet the requirements of City Council Policy 6-29 and the City's NPDES permit will be submitted with the development plans and must be approved by the Planning Department prior to issuance of a Planned Development permit.

4.8.2.4 Ground Water Impacts

Currently the project site is approximately 100 percent developed and is not designated as a recharge site for the groundwater aquifers. The proposed project will have less impermeable surface area than the existing condition, but will not contribute to the recharging of the groundwater aquifers. Implementation of the project site will not interfere with groundwater flow or expose any aquifers. The water supply for the project site will not be met from the groundwater supply (see Section IV.P., *Utilities and Service Systems* for a discussion of water supply) and, as a result, the project will not deplete the existing groundwater supply.

4.8.3 Conclusion

With implementation of the proposed mitigation and conformance with City Council Policy 6-29 and the City's NPDES Permit, the project will have a less than significant hydrology and water quality impact and would not result in any new or more significant hydrology and water quality impacts than were previously identified in the NSJ FPEIR.

4.9 LAND USE

4.9.1 Setting

4.9.1.1 Existing Land Use

The project site is an approximately 6.08-acre parcel located at the southwest corner of Airport Parkway and Old Bayshore Road (APN 230-29-065). The site is currently developed with two one-story office buildings totaling approximately 102,000 square feet and is surrounded by a surface parking lot and landscaping. The buildings are partially occupied with various businesses including an attorney's office, credit services, and an adult continuing education facility. The landscaping consists of a small grass area at the western end of the buildings and trees around the building and perimeter of the site.

4.9.1.2 Surrounding Land Uses

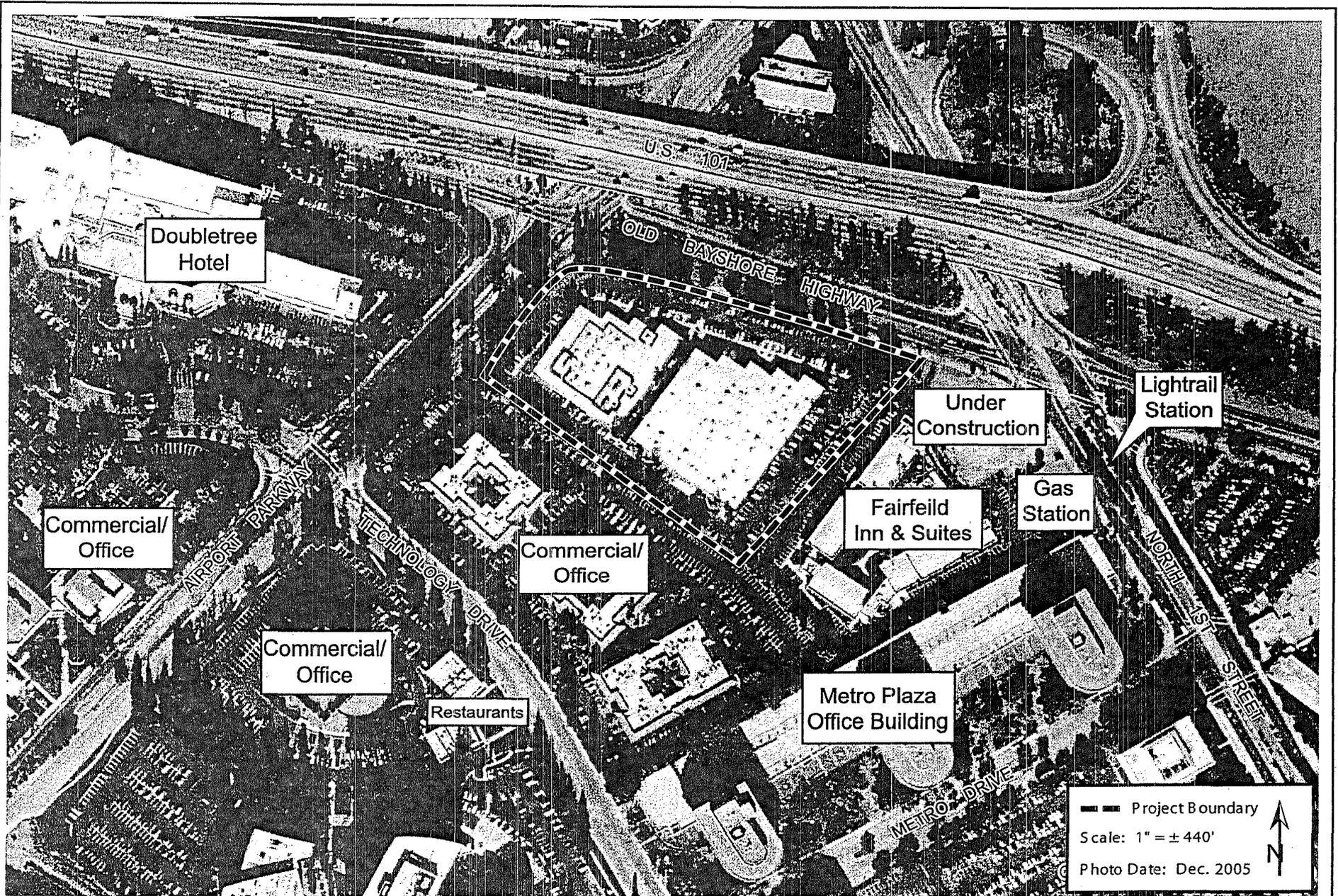
The land uses on the project site and in the surrounding area have not changed since the NSJ FPEIR was prepared and certified. The immediately surrounding land uses include a mix of office, commercial, and hotel land uses.

Directly west of the project site is Airport Parkway, a four-lane roadway. On the west side of Airport Parkway is the eight story Doubletree hotel and an office building complex that ranges in height from four to seven stories. Directly north of the site is Old Bayshore Highway, which is a six lane roadway in the vicinity of the project site. North of Old Bayshore Highway is U.S. 101 which is elevated in the area of the project site. Directly east of the project site is the Fairfield Inn & Suites (a two to three story hotel), a small commercial building, and a gas station. East of the gas station and commercial center is the Metro Light Rail Station located in the middle of North First Street, located approximately 875 feet southeast of the project site. Just east of the hotel is the Metro Plaza office building (a three story building with three seven story towers). West of the project site are three two-story office buildings that are separated from the project site by a landscaped barrier. West of the office buildings is Technology Drive, a seven story office building, and two restaurants. Figure 5, an aerial photograph, shows the project site and surrounding land uses.

4.9.1.3 Land Use Plans

General Plan Land Use Designation

After the certification of the 2006 NSJ FPEIR, the San José 2020 General Plan land use designations in north San José were modified in selected areas including the subject site. As a result, the existing land use designation on the project site (*IP – Industrial Park*) was modified to include a *Transit/Employment Residential (55+ DU/AC) Overlay*. The *Transit/Employment Residential (55+ DU/AC) Overlay* does not change the underlying land use designation of *IP – Industrial Park*, however, it does allow for the development of residential land uses as an alternative use at a minimum average density of 55 DU/AC. The designation also allows commercial uses on the first two floors, with residential uses on the upper floors, in addition to exclusively residential development. Development under this land use designation is intended to make efficient use of land to provide residential units near transit and to support nearby industrial employment centers. As described in the NSJ FPEIR, while the General Plan:



AERIAL PHOTOGRAPH

FIGURE 5

...continues to support land uses per the underlying designation, residential development is also considered consistent with the General Plan on sites within the overlay area and may be implemented without further modification to the General Plan through the rezoning and development permit process. Site specific land use issues and compatibility with adjacent uses should be addressed through the rezoning and development permit processes. Land within this overlay area may also be converted for the development of new libraries, schools, and parks as needed to support residential development.

The land use designation was approved based on the assumption that the identified number of units could be developed on up to 285 acres of land within the overlay during the lifetime of the General Plan. Since the overlay was applied to 400 acres, it has never been assumed that all of the land within the overlay was suitable for or would be developed as residential. The determination of compatibility for any specific site within its particular context was to be made through zoning and permit processes.

Zoning Designation

The project site is zoned *IP – Industrial Park*. The *IP-Industrial Park* zoning designation is an exclusive designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.

Rincon South Specific Plan

The Rincon South Specific Plan, incorporated into the General Plan, sets forth specific land use policies and development guidelines for the Rincon South area (bounded by US 101, SR 87, and I-880). The proposed project site is located within the Rincon South Specific Plan area. Specific Plan goals encourage new development to: support transit use, foster a pedestrian friendly environment, and to improve the visual character of the area. The Specific Plan goals also include the promotion of new and protection of existing residential areas, addition of parklands, promotion of retail development, promotion of economic development including office and other industrial uses, and the minimization of traffic impacts.

North San José Area Development Policy

The North San José Area Development Policy (hereinafter referred to as the Policy) provides for the development of up to 32,000 new residential dwelling units within North San José, including the potential conversion of up to 285 acres of existing industrial lands to residential use at minimum densities of either 55 du/ac (up to 200 acres) or 90 du/ac (up to 85 acres). A summary of the provisions of the Policy are listed in Table 3. A discussion of the project's consistency with these provisions is included in Section 4.9.2.1 of this Initial Study.

TABLE 3			
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		
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 (see list for residential projects in Policy).	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 Residential Design Guidelines.	X		
Project is consistent with Multi-modal Transportation Design Criteria in the ADP.	X		
Project incorporates Green Building techniques, resource conservation programs, and minimizes water use.	X		

4.9.1.4 Other

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

4.9.1.5 Environmental Checklist and Discussion

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)
Would the project:						
1) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

The project proposes to rezone the project site from *IP – Industrial Park* to *A(PD) – Planned Development* to allow for the demolition of the existing office buildings and development of up to 600 dwelling units and 10,168 gross square feet of commercial space.

4.9.2.1 Conformance with Land Use Plans

General Plan Conformance

The project includes to 600 dwelling units and 10,168 gross square feet of commercial space. The overall net density of the residential development would be approximately 112 DU/AC (with the park dedication, 99 DU/AC without the park dedication). The proposed project would, therefore, be consistent with the *Transit/Employment Residential Overlay* which requires a minimum density of 55 dwelling units per acre and allows for mixed use within the same buildings.

Rincon South Specific Plan

As stated in the setting section above (see 4.9.1.3), the specific goals of the Rincon South Specific Plan are to support transit use, foster a pedestrian friendly environment, and to improve the visual character of the area. The Specific Plan goals also include the promotion of new and protection of existing residential areas, addition of parklands, promotion of retail development, promotion of economic development including office and other industrial uses, and the minimization of traffic impacts.

The proposed project is located within 875 feet of an existing light rail transit line and numerous bus routes, which will promote transit use. The development ground floor retail with residential above near shops and transit will foster a pedestrian environment and increase residential and retail land uses in the project area. The project also proposes to dedicate 0.74 acres of the project site to the City for use as a public park, thereby increasing parkland in the project area. The development of housing on this site, near the job centers of north San José, will decrease traffic impacts by

shortening commutes and/or allowing workers to use public transit. Lastly, the redevelopment of this site with two mixed use towers and a public park will improve the visual character of the neighborhood.

For all the reasons listed above, the proposed project is consistent with the goals of the Rincon South Specific Plan.

North San José Area Development Policy

Land Use

The proposed project is consistent with the land use provisions in the Policy because it proposes residential development at 99 du/ac within an appropriate transit employment overlay area, proposes residential development in proximity to public transit, would not impact a vital or "driving" industrial use, would not expose residents to significant hazards from nearby industrial facilities (see Section 4.7 Hazards and Hazardous Materials), and proposes to comply with the City's *Parkland Dedication Ordinance* by dedicating and/or paying in-lieu fees (refer to Sections 4.13 Public Services and 4.14 Recreation).

Traffic

The project will pay relevant impact fees and proposes design features (which include TDM measures) that encourage bicycle and pedestrian movements (refer to Section 4.3 Air Quality). As a result, the proposed project is consistent with the traffic provisions of the Policy.

Infrastructure Improvements

The proposed project is consistent with the Policy's provisions for infrastructure improvements. As discussed in Section 4.16 Utilities and Service Systems, the existing utility systems have adequate capacity to serve the proposed project and the project would connect to existing utility lines in nearby streets.

Allocation of Capacity

The City Council has to date approved two rezonings (PDC60-022 and PDC05-99) for residential uses in the North San José Development Policy area totaling 11.9 acres. One of the approved projects, PDC06-022, consists of 100 residential units on 0.8 acres at a density of approximately 125 DU/AC. The second approved project, PDC05-099, consists of up to 580 residential units on 8.7 acres at a density of 66 DU/AC. For this reason, sufficient capacity remains to allow development of the proposed units and commercial space.

Design Criteria

As discussed below and in Section 4.1 Aesthetics, the proposed project is generally consistent with the City's *Residential Design Guidelines*. The City's *Residential Design Guidelines*, however, do not specifically address development at the density and character envisioned by the Policy and the General Plan for the Transit Employment Residential areas in North San José. Two new chapters have been drafted, and are undergoing public review, that addresses transit-oriented development and mid- and high-rise residential development. New proposed guidelines include recommendations for mixed-use development with ground floor retail, pedestrian accessibility using smaller block sizes,

minimum residential density of 55 du/ac, a range of accessible open spaces, and on-street and below grade parking. Adoption of the updated *Residential Design Guidelines* with these two new chapters is anticipated in winter of 2007 – 2008. The proposed project would be consistent with the guidelines in the two proposed new chapters.

In addition, the project is consistent with the Policy's Multi-modal Transportation Design Criteria because it incorporates commercial services on-site and includes TDM measures to encourage pedestrian and bicycle movement (refer to Section 4.3 Air Quality).

The proposed project is consistent with the North San José Area Development Policy.

4.9.2.2 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.

Residential Development

As discussed in the NSJ FPEIR, developing residential land uses near existing industrial uses could result in land use compatibility issues. The residential land uses proposed on the project site are buffered from the adjacent office uses to the north and south by Airport Parkway and a hotel respectively. There are no barriers between the project site and the two-story office buildings directly west of the site. The north tower would be set back approximately 17 feet from the southern property line and the south tower would be set back approximately 96 feet from the southern property line. The back of the tower buildings and community center (i.e., the west walls) will face the adjacent office buildings. No balconies will be located on the west walls of the towers but there will be windows. Approximately 30 feet of parking and landscaping on the office property will further separate the residential towers and public park from the existing office buildings.

It was concluded in the NSJ FPEIR that development of residential uses, in conformance with the City's *Residential Design Guidelines*, would limit the likelihood that significant land use compatibility impacts between new residents and surrounding land uses would arise. Compliance with the City of San José *Residential Design Guidelines* will be required as a condition of approval and includes the following design criteria:

- *Chapter 5 – Perimeter Setbacks:* Residential structures of three stories or more are to be set back a minimum of 15 feet from incompatible uses. Residential structures of three stories or more are to be set back a minimum of 25 feet from public open space.
- *Chapter 9 – Landscaped Areas:* Landscaping should be provided in all setback areas between project walls and/or fences and the rights-of-way of public streets and sidewalks. The landscaping should be generous and should include trees and/or shrubs as well as groundcover. Tall shrubs or vines should be planted to help screen walls and fences and provide protection from graffiti.
- *Chapter 11 – Building Design:* This chapter specifies minimum façade articulation, vertical and horizontal roof articulation, the quality of building materials and details, stylistic consistency, and the need for care and attention to detail in design of street facades.

- *Chapter 14 – Solar Access:* Within a project, buildings should not be located in positions that will result in substantial shading of the private open space of adjacent units in the project.

Federal Aviation Administration Determination

Implementation of the proposed project would result in two 20-story buildings located within the navigable airspace of the Norman Y. Mineta San José International Airport. Due to the project's proximity to the flight paths, development on the site is subject to height limits under Federal Aviation Regulations, Part 77, which is administered by the Federal Aviation Administration (FAA) and incorporated into Santa Clara County Airport Land Use Commission policy. Under these regulations, any proposed structure that would exceed an FAA imaginary surface restriction, or which stands at least 200 feet above ground level, is required to be reviewed by the FAA for an airspace safety evaluation. The proposed residential towers would stand at 220 feet above the ground surface which exceeds the FAA imaginary surface restriction of 159 feet above ground level, which is equivalent to 206 feet above mean sea level.

A submittal was made to the FAA pursuant to federal regulations for a maximum building height of 220 feet above the ground surface and 263 feet above mean sea level. Based on this submittal, the FAA issued a Determination of No Hazard¹¹ (see Appendix F) on the condition that the buildings are marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (red), and 12.

Airport Land Use Commission Determination

On April 26, 2006 the Airport Land Use Commission (ALUC) found the proposed General Plan Text amendment inconsistent with the *Land Use Plan for Areas Surrounding Santa Clara County Airports*. The ALUC found the proposed General Plan amendment to be inconsistent with the *Land Use Plan for Areas Surrounding Santa Clara County Airports*, because the amendment proposes the allowance of a maximum building height of 220 feet, which exceeds the FAA's Part 77 imaginary surface limitation on the site of 206 feet above mean sea level. This determination was made prior to the issuance of the FAA Determination of No Hazard.

The ALUC found that the FAA Part 77 Imaginary Surface Height Restrictions, adopted by the ALUC, represents a reasonable consideration for public safety, for which compliance should be required. ALUC Land Use Policy G-3 requires dedication of an aviation easement to the jurisdiction owning the airport as a condition of approval on any project located within an adopted referral area. All such easements shall restrict development height according to the provisions of FAA Part 77, or an alternate elevation approved by the FAA. The FAA Determination of No Hazard for the 220 foot height constitutes an alternate elevation approved by the FAA according to this ALUC policy.

In March 2007 the City of San José took the proposed General Plan Text amendment back to the ALUC to request an override of their original findings based on the FAA Determination of No Hazard. The City also requested the ALUC to consider the proposed rezoning application. The ALUC made a determination that regardless of the FAA determination, both the General Plan Text amendment and the rezoning are inconsistent with their Land Use Plan because the proposed height penetrates the Part 77 Imaginary Surface.

¹¹ Specifically the FAA issued eight No Hazard Determinations one for each corner of each tower. The No Hazard determinations will expire on 07/02/2009 unless the project is under construction or an extension is granted.

General Plan Text Amendment

As discussed above, the project proposes a General Plan Text amendment to increase the allowable building height from 150 to 220 feet. The ALUC concluded that the proposed building height is inconsistent with the ALUC Land Use Plan. The FAA, however, determined that at 220 feet the proposed towers would not interfere with or endanger the operations of the Norman Y. Mineta San José International Airport. While the proposed height increase is technically inconsistent with the ALUC Land Use Plan, it will not result in a land use safety impact for the airport. In addition, in compliance with ALUC policy and General Plan Aviation Policy No. 49, the property owner will be required to grant an aviation easement to the City prior to development. Therefore, the proposed General Plan Text amendment will have a less than significant land use impact.

Standard Measure: The policies in the City of San José General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. Future development on the site would be subject to General Plan policies, including the following:

- Aviation Policy No. 47 states that development in the vicinity of airports should be regulated in accordance with Federal Aviation Administration guidelines to maintain the airspace required for the safe operation of these facilities.
- Consistent with ALUC Policy G-3 and San José 202 General Plan Aviation Policy No. 49 dedicate easements for (1) aviation, and (2) obstruction or other similar clearance easement to the City as conditions of approval for development on the site. The obstruction easement will restrict development heights to the height approved by the FAA in its “No Hazard” determination.
- As conditioned in the FAA’s Determination of No Hazard, buildings must be marked and/or lighted in accordance with FAA advisory Circular 70/7460-1 70/7460-1K, Obstruction Marking and Lighting, red lights – Chapters 4, 5 (red), and 12.

4.9.3 Conclusion

The proposed project, with the implementation of the above mitigation measure, would not result in any new or more significant land use impacts than those addressed in the NSJ FPEIR.

4.10 MINERAL RESOURCES

4.10.1 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 source of designated mineral resources.

4.10.2 Environmental Checklist and Discussion

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)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

As discussed above, the project is not located within a designated area containing mineral deposits of regional significance and, therefore, would not result in the loss of availability of a known mineral resource. Furthermore, there are no mineral excavation sites present within the general area. As a result, the proposed project would not result in impacts to mineral resources.

4.10.3 Conclusion

Implementation of the proposed project specific development would not result in any new or more significant mineral resources impacts than were previously identified in the NSJ FPEIR.

4.11 NOISE

A Noise Assessment was prepared by *Illingworth & Rodkin* in June of 2006 to identify noise impacts resulting from the proposed project. A copy of the noise assessment is found in Appendix G of this Initial Study.

4.11.1 Setting

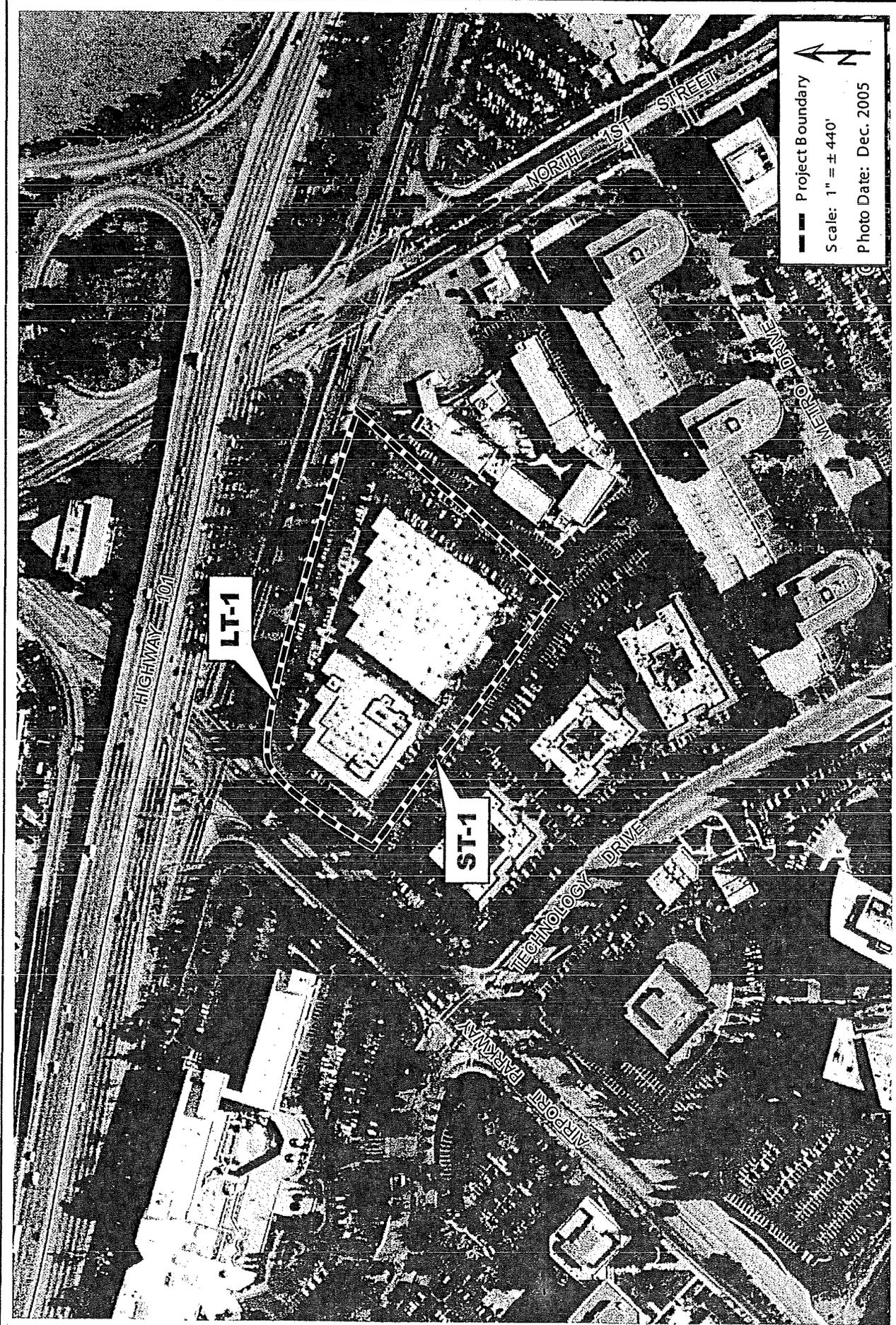
The project site is located at the corner of Airport Parkway and Old Bayshore Highway, between U.S. 101 and the Norman Y. Mineta San José International Airport. Major noise sources in the project area are traffic on U.S. 101 and airplanes. To quantify the existing noise environment on the project site one short term noise measurement and one long-term noise measurement were made. The long-term measurement (LT-1) was made approximately 140 feet from the edge of U.S. 101 near the northern boundary of the project site, approximately 10 feet above ground level. Figure 6 below shows the noise measurement locations. The average hourly noise levels ranged from 61 to 71 dBA with a day-night average noise level of 73 dBA DNL. Exterior noise levels at higher elevations (i.e., elevations with a clear line-of-sight to U.S. 101) are estimated to 5 dBA higher than the average noise levels measured at 10 feet above ground level.

A short term measurement (ST-1) was made approximately 285 feet from the centerline of Airport Parkway behind an existing office building on the project site which is representative of the noise environment at the proposed common outdoor use areas (i.e., pool and tennis courts). Noise levels in this location were measured at 57 dBA with a day-night average noise level of 60 dBA DNL.

According to the Santa Clara County Airport Land Use Plan, the project site is located outside the existing and projected 60 dB CNEL noise contours of the Norman Y. Mineta San José International Airport.

4.11.2 Environmental Checklist and Discussion

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)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 10
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 10
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 10



NOISE MEASUREMENT LOCATIONS

FIGURE 6

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)
Would the project result in:						
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 10
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 10
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3 10

4.11.2.1 Noise Impacts to the Project

As stated in the NSJ FPEIR, Title 24, Part 2 of the State Building Code limits the maximum interior noise level for multi-family housing to 45 dBA. The City of San José General Plan allows residential land uses in areas with exterior noise levels up to 70 dBA if the interior noise levels comply with the State Building Code requirement of 45 dBA and noise levels in exterior activity areas can be reduced to 60 dBA or less.

The proposed public park would be located near the southern boundary of the site and shielded from traffic noise by the residential towers. Currently, noise levels in this location are approximately 57 dBA with a day-night average noise level of 60 dBA DNL, which is within the acceptable noise limits for exterior activity areas. Passive common outdoor open space areas (i.e., lawns and landscaped areas) would be located around the residential towers with most of the passive open space being located adjacent to the west, north, and east boundaries of the site. The passive open space areas would be exposed to ambient noise levels between 61 and 71 dBA, which exceeds the acceptable noise limits for exterior activity areas. In addition to the passive open space areas, a pool deck is proposed near the northern boundary of the site on a third floor deck above the retail shops. Ambient noise levels on the pool deck without any noise attenuation would be between 73 and 79 dBA. Screening-level traffic noise modeling was conducted to calculate the noise levels on the pool deck with the inclusion of a noise barrier along the northern boundary of the deck (facing Highway 101). The results of the analysis are shown in Table 4 below.

TABLE 4 Pool Deck Noise Attenuation		
Noise Barrier Height	Level of Attenuation	Ambient dBA with Barrier
8 foot wall	5 to 8 dBA	68 to 71 dBA
10 foot wall	6 to 9 dBA	67 to 70 dBA
12 foot wall	8 to 11 dBA	65 and 68 dBA

As shown in Table 4, a 12-foot sound wall would be needed on the pool deck to reduce the ambient noise to an acceptable level. Nevertheless, because there are other outdoor use areas on-site that do meet the City's noise guidelines, the passive open space areas and pool deck need not be considered the primary recreational area of the project site.

Exterior noise levels for the upper floors of the towers (i.e., those floors above U.S. 101) would range from 76 to 79 dBA DNL. With exterior noise levels above 60 dBA, the project will be required to provide mitigation to control interior noise levels to 45 dBA or less. Typical residential construction with windows open provides approximately 15 dBA of sound attenuation from exterior noise and residential construction with windows closed provides approximately 25 dBA of sound attenuation from exterior noise. Standard construction, however, will not be sufficient to reduce interior noise levels to 45 dBA at all locations on-site, especially on the upper floors.

Impact NOI-1: Due to traffic noise, the noise environment on the site exceeds the satisfactory exterior noise level standard for residential land uses established by the City of San José. Where noise-sensitive areas are exposed to exterior noise levels greater than 60 decibels, interior noise levels may also exceed the acceptable noise goal of 45 decibels.

Mitigation Measures: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and will be required to be implemented as conditions of approval:

- MM NOI-1.1:** All the units in the project would require mechanical ventilation to allow windows to be closed at the residents' discretion to reduce interior noise levels to 45 dBA L_{dn} or less.
- MM NOI-1.2:** Units with direct line-of-sight to U.S. 101 (i.e., units with windows along the north side of the towers) will need additional sound attenuation construction treatments. These treatments may include but are not limited to sound rated windows and doors, sound rated wall construction, and acoustical caulking. An analysis of each unit facing U.S. 101 will be prepared to make a specific determination of what treatments are necessary for each unit. The results of the analysis will be submitted to the City of San José along with the building plans and will need to be approved by the Director of Planning, Building, and Code Enforcement prior to issuance of any building permits.

4.11.2.2 Noise Impacts from the Project

Traffic Related Noise

Ambient noise levels in the project area will increase due to traffic generated by full build out under the North San José Development Policies Update, which includes the proposed project. The NSJ FPEIR determined that given the implementation timeframe for full build out of North San José and the incremental contributions from individual developments, there is no nexus for requiring

mitigation for traffic noise at affected receptors from individual projects. The implementation of measures available to reduce the project noise level increase would not likely be reasonable or feasible and the impact was found to be significant and unavoidable.

Construction Related Noise

The development of the proposed project would generate noise and would temporarily increase noise levels at adjacent land uses. Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment, the timing and duration of noise generation activities, and the distance between construction noise sources and noise sensitive receptors. Where noise from construction activities exceeds 60 dBA and the ambient noise environment by at least 5 dBA, the impact would be considered significant.

Office, commercial businesses and hotels border the site to the north, east, and south. Existing ambient noise levels at these adjacent land uses range from approximately 60 to 79 dBA. Construction noise levels at these locations would intermittently exceed 60 decibels and existing ambient levels would increase by more than five decibels when construction occurs on the site. Noise levels produced by heavy equipment may interfere with normal activities during busy construction periods. Noise generated by construction would create a temporary noise impact on adjacent noise sensitive receptors.

Impact NOI-2: Noise generating activities associated with demolition and construction at the project site would temporarily elevate noise levels in the area surrounding the project site.

Mitigation Measures: The following mitigation measures are identified as part of the certified 2005 NSJ FPEIR and will be required to be implemented as conditions of approval:

- MM NOI-2.1:** Noise generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way will be restricted to the hours of 7:00 AM to 6:00 PM, Monday through Friday, and 8:00 AM to 5:00 PM on Saturdays. No construction activities will occur on Sundays or holidays.
- MM NOI-2.2:** All internal combustion engine driven equipment will be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- MM NOI-2.3:** Stationary noise generating equipment will be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- MM NOI-2.4:** "Quiet" air compressors and other stationary noise sources will be used where technology exists.
- MM NOI-2.5:** The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- MM NOI-2.6:** A "disturbance coordinator" will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented.

MM NOI-2.7: Conspicuously post a telephone number for the disturbance coordinator at the construction site.

4.11.3 **Conclusion**

With implementation of the proposed mitigation, the project will have a less than significant construction noise impact. The proposed project would not result in any new or more significant noise impacts than were previously identified in the NSJ FPEIR.

4.12 POPULATION AND HOUSING

4.12.1 Setting

The City of San José is a housing-rich city, meaning the City does not have enough jobs to support all employed residents. The most recent projections released by the Association of Bay Area Governments (ABAG) estimates that the City of San José had 402,290 employed residents and 363,380 jobs in 2005. The City’s General Plan contains strategies and policies aimed at improving the jobs/housing imbalance. Identified reasons for increasing jobs in the City include meeting economic goals and reducing the length of daily commutes for residents to avoid impacts directly related to long commutes including traffic congestion and air pollution. In addition, the General Plan addresses the cost of providing services to residential land uses as exceeding the revenue generated by residential development and identifies the need for industrial development to offset those costs.

To increase industrial development and the number of jobs within the City, San José approved the North San José Development Policies Update which allows for the development of approximately 83,300 jobs and 32,000 new dwelling units in North San José. The proposed project is counted as part of the approved 32,000 dwelling units.

4.12.2 Environmental Checklist and Discussion

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)
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

The NSJ FPEIR concluded that development and redevelopment of properties in the project area will increase both jobs and housing in North San José. The proposed land use changes and policy revisions under the North San José Development Policies Update (which include the proposed project) would result in a greater increase of jobs than housing in North San José, which is consistent with the City’s General Plan policies.

4.12.3 Conclusion

Implementation of the proposed project specific development would not result in any new or more significant population and housing impacts than were previously identified in the NSJ FPEIR.

4.13 PUBLIC SERVICES

4.13.1 Setting

All public services provided in North San José are discussed in detail in the NSJ FPEIR. There has been no change in the availability of services since the NSJ FPEIR was prepared. Project specific information for police, fire, school, park, and library services are listed below.

The nearest fire station to the proposed project site is Station 29, located at 199 Innovation Drive. Station 29 has an engine company, a truck company, a battalion chief, and a Hazardous Incident Team. Officers patrolling the project area are dispatched from police headquarters, located at 201 West Mission Street. The most frequent calls for service in the area include disturbances, traffic accidents, and theft. The project site is located within the Orchard School District which consists of one elementary school (Orchard Elementary School) located at 921 Fox Lane. The nearest park to the project site is North Coyote Park located approximately 1.4 miles east of the site adjacent to the San José Municipal Golf Course. The nearest library within the North San José area is the Alviso Branch located at 5050 North First Street.

4.13.2 Environmental Checklist and Discussion

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)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.13.2.1 Fire Service

As stated in the NSJ FPEIR, full build out under the approved North San José Development Policies Update may create the need for an additional fire station in the project area. Implementation of the

proposed project specific development would not result in any new or more significant impacts on fire protection services than were previously identified in the NSJ FPEIR.

4.13.2.2 Police Service

Implementation of the proposed project would incrementally increase the need for police protection services in the project area because it will increase the overall residential population.

As stated in the NSJ FPEIR, full build out under the approved North San José Development Policies Update may create the need for an additional staffing and other resources but will not require the construction of new police facilities. Implementation of the proposed project specific development would not result in any new or more significant impacts on fire protection services than were previously identified in the NSJ FPEIR.

4.13.2.3 Schools

While the provision of basic education is not a City responsibility, the City does recognize that it is in the best interests of all citizens of San José that public schools be reliably funded and have adequate facilities for educating students. Quality education benefits the entire City and its residents and is only ensured when school districts have a reliable source of funding for programs and facilities. The City of San José recognizes that land use decisions and policies impact school operations.

The NSJ FPEIR concluded that two new elementary schools (K-8) would need to be built within the Orchard School District to accommodate full build out of North San José. The State and local school districts are responsible for providing and maintaining school facilities within San José. State law (Government Code 65996) specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of the building permit. In San José, residential development project applicants can either negotiate directly with the affected school districts, or they can make a presumptive payment for multi-family units. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. The school impact fees and the school districts' methods of implementing measures specified by Government Code 65996 would partially offset the cost of serving project-related increases in student enrollment. Nevertheless, the school districts have indicated that these combined sources of funds are often not adequate to provide the needed school facilities. While school districts should explore all the methods within their power to efficiently use or reuse school facilities and resources, the City encourages project applicants to coordinate with affected school districts to provide for local school facilities.

Implementation of the proposed project would result in approximately 144 new students in grades K-12. As stated in the NSJ FPEIR, full build out under the approved North San José Development Policies Update may create the need for additional schools in the Orchard School District. Development of future schools will require supplemental environmental review, but is not anticipated to have significant adverse environmental impact. Implementation of the proposed project specific development would not result in any new or more significant impacts on schools than were previously identified in the NSJ FPEIR.

Standard Measure: In accordance with City policy, the project will be required to implement the following standard measure:

- In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to offset the increased demands on school facilities caused by the proposed project.

4.13.2.4 Parks

Implementation of the proposed project would result in an increased number of residents who may utilize recreational land within the project area. The City has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) that requires 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 project proposed for the site will be required to conform to the PDO or PIO. As part of the project's parkland requirement, the project will dedicate 0.74 acres of land in the southwest corner of the site for a public park. The proposed roadway through the project site will be dedicated to the City as a public street to provide public access to the park. Additionally, the proposed housing provides on-site common open space, including a pool, in conformance with the City's *Residential Land Use Policy 11*.

As stated in the NSJ FPEIR, full build out under the approved North San José Development Policies Update may create the need for additional recreational lands in North San José. Development of future parks will require supplemental environmental review, but is not anticipated to have significant adverse environmental impact. Implementation of the proposed project specific development would not result in any new or more significant impacts on parks and recreational lands than were previously identified in the NSJ FPEIR.

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

- Conform to the City's *Park Impact Ordinance* (PIO) and *Parkland Dedication Ordinance* (PDO) by dedication of parkland or payment of in-lieu fees (Municipal Code Chapter 19.38).

4.13.2.5 Libraries

Implementation of the proposed project will increase the demand for library services in North San José. As stated in the NSJ FPEIR, full build out of North San José will likely require a new library to be built or substantial expansion of existing libraries in the immediate area. Development of future a library or expansion of an existing library will require supplemental environmental review, but is not anticipated to have significant adverse environmental impact. Implementation of the proposed project specific development would not by itself require new library facilities and would not result in any new or more significant impacts on library services than were previously identified in the NSJ FPEIR.

4.13.3 Conclusion

Implementation of the proposed project specific development would not result in any new or more significant public service impacts than were previously identified in the NSJ FPEIR.

4.14 RECREATION

4.14.1 Setting

The City of San José currently manages 3,500 acres of regional and neighborhood parkland. The City provides developed parklands, open space, and community facilities to serve its residents. Some of these facilities are supplemented by other public uses such as public school playgrounds and fields, county parks, and trail facilities on Santa Clara Valley Water District lands. Park and recreation facilities vary in size, use, type of service, and provide for neighborhood, citywide, and regional uses. The City Departments of Parks, Recreation and Neighborhood Services, General Services and Public Works are responsible for the design, construction, operation, and maintenance of all City park and recreational facilities.

The City's General Plan has established level of service benchmarks for parks and community centers. The City has a service goal of 3.5 acres of neighborhood and community serving parkland per 1,000 residents. A minimum of 1.5 acres of the parkland should be City-owned and the remaining acreage could be school playground/fields, all of which should be located within three-quarters of a mile walking distance of each residence. In addition, the City seeks to provide 7.5 acres of regionally serving parkland and 500 square feet of community center space per 1,000 residents.

The nearest park to the project site is North Coyote Park located approximately 1.4 miles east of the site adjacent to the San José Municipal Golf Course. There has been no change in available parkland since the NSJ FPEIR was prepared.

4.14.2 Environmental Checklist and Discussion

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)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

Implementation of the proposed project would result in an increased number of residents who may utilize recreational land within the project area. The City has adopted the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) that requires 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 project proposed for the site will be required to conform to the

PDO or PIO. As part of the projects parkland requirement, the project will dedicate 0.74 acres of land in the southwest corner of the site for a public park. The proposed roadway through the project site will be dedicated to the City as a public street to provide public access to the park. Additionally, the proposed housing provides on-site common open space, including a pool, in conformance with the City's *Residential Land Use Policy 11*.

As stated in the NSJ FPEIR, full build out under the approved North San José Development Policies Update may create the need for additional recreational lands in North San José. Development of future parks will require supplemental environmental review, but is not anticipated to have significant adverse environmental impact. Implementation of the proposed project specific development would not result in any new or more significant impacts on parks and recreational lands than were previously identified in the NSJ FPEIR.

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

- Conform to the City's *Park Impact Ordinance (PIO)* and *Parkland Dedication Ordinance (PDO)* by dedication of parkland or payment of in-lieu fees (Municipal Code Chapter 19.38).

4.14.3 Conclusion

Implementation of the proposed project specific development would not result in any new or more significant recreational impacts than were previously identified in the NSJ FPEIR.

4.15 TRANSPORTATION

4.15.1 Setting

4.15.1.1 Existing Roadway Network and Transportation Facilities

The roadway network serving this site and the project area has not changed since preparation and completion of the NSJ FPEIR. The property has direct access to Airport Parkway and Old Bayshore Highway, and is approximately 65 feet from U.S. 101. The site is located approximately 1,300 feet west of the Metro Light Rail Station. VTA does not provide any regional bus service to/from the project site. The only bus service in close proximity to the project site is the Free VTA SJC Airport Flier (Route No. 10) which stops on North First Street across from the Metro Light Rail Station and also serves the hotels in the project area. There are no bike lines on the roads directly adjacent to the project site.

4.15.1.2 North San José Area Development Policy

The City adopted a new Area Development Policy for North San José as part of the approved North San José Development Policies Update. The policy makes better use of the land in North San José by encouraging intensification of an existing urbanized area in order to significantly increase transit use and discourage sprawl on the outer edges of Santa Clara County and the Central Valley.

The proposed project site is located within the San José Development Policy area. The Area Development Policy allows the project site to be redeveloped with high density residential land uses because of its proximity to jobs and transit, even though the City's LOS policy cannot be achieved in the project area.

4.15.1.3 North San José Deficiency Plan

The City of San José adopted the *Deficiency Plan for North San José* in December 1994, in conformance with the Santa Clara County Congestion Management Plan (CMP) and California Government Code Section 65089.3. The County CMP requires that a city must adopt a deficiency plan if a CMP facility will fall below the LOS standard identified in the CMP. The CMP allows cities to exceed the LOS on a CMP facility if the city implements improvements, programs, or other actions which both improve the level of service of the overall CMP system and improve regional air quality.

In conformance with the CMP requirements, the *Deficiency Plan for North San José* identified the regional facilities whose operations would be adversely impacted by planned development in the area, the planned capital improvements that would help to improve traffic conditions in the area, a number of operational efforts (such as Transportation Demand Management Measures) that would be required in order to reduce congestion, and established an improved condition goal that would be met for the impacted regional facilities.

A revised Deficiency Plan for North San José was proposed as part of the approved North San José Development Policies Update as a companion to the revised North San José Development Policy. The revised Deficiency Plan reflects the City's approved intensification of development in North San José and the actions proposed to encourage and facilitate transit use in the area.

4.15.1.4 Environmental Checklist and Discussion

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)
Would the project:						
1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
5) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
6) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

Implementation of the proposed project will contribute to the overall LOS impact on local intersections and freeway segments. These impacts were found to be significant and unavoidable and, as a result, the City of San José adopted a statement of overriding consideration for the NSJ FPEIR transportation impacts in accordance with CEQA Guidelines Section 15093. This project will not result in any new or more significant impacts to the LOS of any local intersection or freeway segment than were previously identified in the NSJ FPEIR.

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

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

Parking

According to the City of San José parking code for multiple dwelling units with open parking (i.e., parking within a parking structure but not individual garages), the proposed project is required to

provide 1.5 parking spaces for studio/one-bedroom units, 1.8 parking spaces for two-bedroom units, and 2.0 parking spaces for three-bedroom units. Of the total residential parking spaces, 10 percent must be made available (i.e., outside of any secured parking areas) for guest parking. Because tandem parking spaces are proposed, an additional 0.2 parking spaces needs to be provided for each unit assigned a tandem parking space. In addition, tandem parking cannot account for more than 25 percent of the total residential parking. The parking requirement takes into account the 10 percent parking reduction allowed for projects located within 2,000 feet of a light rail station (San José Zoning Ordinance 20.90.220).

The project proposed a total of 883 regular parking spaces and 106 tandem parking spaces. The project also includes 16 parallel parking spaces on the interior access road which would be available to the residents as well as guests and retail customers. In addition, parking is available on the Bayshore Frontage Road which is a public street with curbside parking on its south side.

The project is also required to provide one parking space per 200 square feet of retail space. Based on this requirement, the project needs 45 retail parking spaces. The project proposes 31 retail parking spaces. The proposed retail component of the project will be under parked by 14 spaces. While the proposed number of retail parking spaces does not meet the standards set by the City's Zoning Ordinance and adopted Design Guidelines, the project does include 16 parallel parking spaces on the interior access road which would be available to the retail customers. In addition, there is parking available on the Bayshore Frontage Road.

The project will conform to the standards set by the City's Zoning Ordinance and adopted Design Guidelines and provide sufficient parking to support the proposed project.

4.15.3 Conclusion

Implementation of the proposed project specific development would not result in any new or more significant transportation impacts than were previously identified in the NSJ FPEIR.

4.16 UTILITIES AND SERVICE SYSTEMS

4.16.1 Setting

All utilities and service systems provided in North San José are discussed in detail in the NSJ FPEIR. There has been no change in the availability of services since the NSJ FPEIR was prepared. Project specific information for water, sanitary sewer, storm drains, and solid waste services are listed below.

4.16.1.1 Water Service

Water service to the site is supplied by the San José Water Company. There is a 12-inch water main along the north frontage of the property and an 18-inch water main along the west frontage of the property. The current land uses on the project site use approximately 13,242 gallons per day of water (gpd).

4.16.1.2 Sanitary Sewer/Wastewater Treatment

Sanitary sewer lines in the area are owned and maintained by the City of San José. There is a 10-inch sanitary sewer main line along the north frontage of the property and a 15-inch sanitary sewer main line along the west frontage. The current land uses on the project site generate approximately 6,080 gpd of wastewater.

4.16.1.3 Storm Drainage System

Storm drainage lines in the area are provided and maintained by the City of San José. There is a 48-inch storm drain line located in Old Bayshore Highway and continuing along Airport Parkway. Currently, approximately 92 percent of the project site is impervious.

Based on the NSJ FPEIR, the existing storm drains throughout most of North San José have capacity to carry a three to five year storm event. The existing North San José/Rincon De Los Esteros Storm Drain Master Plan identifies infrastructure, together with associated costs, needed to provide the City of San José standard 10-year drainage to the area. Presently, a portion of the system is under construction but the remainder still needs to be constructed and is currently not funded.

4.16.1.4 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 612 lbs of solid waste per day¹²

¹² California Integrated Waste Management Board. Estimated Solid Waste Generation Rates for Commercial Establishments. 5 January 2004. CIWMB. 15 July 2004. <http://www.ciwmb.ca.gov/wastchar/WasteGenRates/WGCommer.htm>

4.16.2

Environmental Checklist and Discussion

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)
Would the project:						
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3
7) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,3

4.16.2.1 Water Service

Implementation of the proposed project will increase the water demand on the project site by 81,600 gpd. The NSJ FPEIR concluded that both San José Water Company and the San José Municipal Water System (SJMWS) would be able to provide water service (both potable and recycled water) to all future development allowed under the North San José Development Policies Update, which includes the proposed project. The proposed project will not result in any new or more significant impacts to the water supply than were previously identified in the NSJ FPEIR.

4.16.2.2 Sanitary Sewer/Wastewater Treatment

Implementation of the proposed project will increase wastewater generation on the project site by 69,360 gpd. The existing sanitary sewer lines in the North San José area have specific constraints that were identified in the 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.

The proposed project will not result in any new or more significant impacts to the waste water infrastructure than were previously identified in the NSJ FPEIR.

4.16.2.3 Storm Drainage System

As stated above, implementation of the proposed project will result in an approximately 18 percent decrease in impervious surfaces on the project site. The reduction in impervious surfaces will result in a net reduction in stormwater runoff entering the storm drain system. As a result, the proposed project will not exceed the capacity of the existing storm drainage system.

The proposed project will not result in any new or more significant impacts to the local storm drainage system than were previously identified in the NSJ FPEIR.

4.16.2.4 Solid Waste

Implementation of the proposed project will result in a net increase of solid waste generated on the project site. The proposed project will generate approximately 2,708 lbs per day of solid waste¹³, which is 2,096 lbs per day more than the current land use. The 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 NSJ FPEIR.

4.16.3 Conclusion

The proposed project will not result in any new or more significant utilities impacts than were previously identified in the NSJ FPEIR.

¹³ Personal communication, Jeff Anderson, City of San José Environmental Services Department, December 22, 2005.

4.17 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)
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 – 14
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 – 14
3)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 – 14

The proposed development would contribute to significant cumulative transportation, air quality, and noise impacts resulting from full build out of North San José under the North San José Development Policies Update. No feasible mitigation measures have been identified to reduce these cumulative impacts to a less than significant level. The proposed project will not result in any new or more significant impacts than were previously identified in the NSJ FPEIR.

Checklist Sources

1. CEQA Guidelines - Environmental Thresholds (Professional judgment and expertise)
2. City of San José General Plan, 1994
3. North San José Development Policies Update FEIR, 2005
4. U.S. Department of Agriculture, Soils of Santa Clara County, 1968
5. Federal Emergency Management Agency, Flood Insurance Rate Map
6. ABAG Projections, 2007
7. Cooper-Clark Geotechnical Investigation for the City of San José Sphere of Influence, 1974
8. Phase I
9. Geotechnical Report
10. Noise Analysis
11. Tree Survey
12. Vicinity Hazardous Materials Users Survey I
13. Archaeological Literature Review
14. Vicinity Hazardous Materials Users Survey II

SECTION 5 REFERENCES

Association of Bay Area Governments. Projections 2007, December 2006.

Association of Bay Area Governments. Web Site. <http://www.abag.ca.gov/>.

Basin Research Associates. Archeological Literature Review, June 2006.

Bay Area Air Quality Management District, CEQA Guidelines, Assessing the Air Quality Impacts of Projects and Plans, December 1999.

Bay Area Air Quality Management District. Web Site. <http://www.baaqmd.gov/>.

Blackie, Belinda. Vicinity Hazardous Materials Users Survey, June 2006.

Blackie, Belinda. Vicinity Hazardous Materials Users Survey, October 2006.

City of San José. Web Site. <http://www.ci.san-jose.ca.us/>.

Cooper-Clark Associates, Geotechnical Investigation of San José's Sphere of Influence, 1974.

Ellis, Deborah. Tree Survey. June 2006

Illingworth & Rodkin, Noise Analysis, June 2006

Institute of Transportation Engineers, Trip Generation Manuel, 1991.

U.S. Department of Agriculture, Soil Conservation Service, Soils of Santa Clara County, August 15, 1968.

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