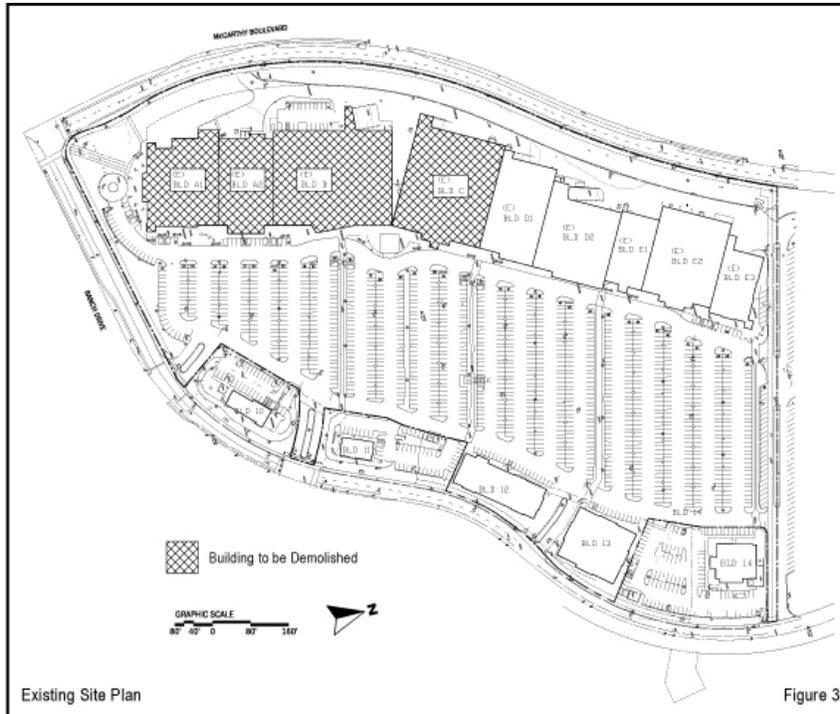


Appendix A – Initial Study

SECTION 1 PROJECT DESCRIPTION

The 25.1-acre project site is comprised of four parcels (APNs 22-053-002, -003, -006, and -007) located on east side of McCarthy Boulevard just north of State Route 237 in the City of Milpitas. Of the four parcels, only two parcels (22-053-006 and 22-053-007) will be modified as part of the proposed project. The project site is currently designated *General Commercial (GCN)* in the General Plan and zoned *C2 –General Commercial*.

The project site is part of a larger irregularly shaped commercial center with shared parking that is defined by McCarthy Boulevard, Ranch Drive, and the adjacent Walmart site. The project site



(which does not include buildings 10, 11, and 14) is currently developed with 267,606 square feet of commercial buildings and a large surface parking lot. The commercial buildings are currently comprised of a mix of chain retail stores and restaurants. The project proposes to demolish four of the large commercial buildings (noted as Buildings A1, A2, B, and C on the existing site plan which total 139,710 square feet) and construct a 12-story, 250 room hotel with ground floor and second floor retail,

second floor hotel amenities (including a fitness room, conference facilities, and a restaurant), and one level of underground parking. The maximum height of the hotel would be 170 feet. The surface parking lot in front of the hotel would also be modified slightly to account for the larger footprint of the proposed building. The remaining buildings on the project site would not be modified. Figures A1 and A2 below shows the proposed site plan and building elevation. Table 1 below lists the sizes of the buildings on-site and whether or not they are included within the project boundary.

Building No.	Building Size	Within Project Boundary	Status
A1	25,000	Yes	To Be Demolished
A2	21,000	Yes	To Be Demolished
B	51,000	Yes	To Be Demolished
C	42,710	Yes	To Be Demolished
D1	23,780	Yes	To Remain
D2	25,416	Yes	To Remain

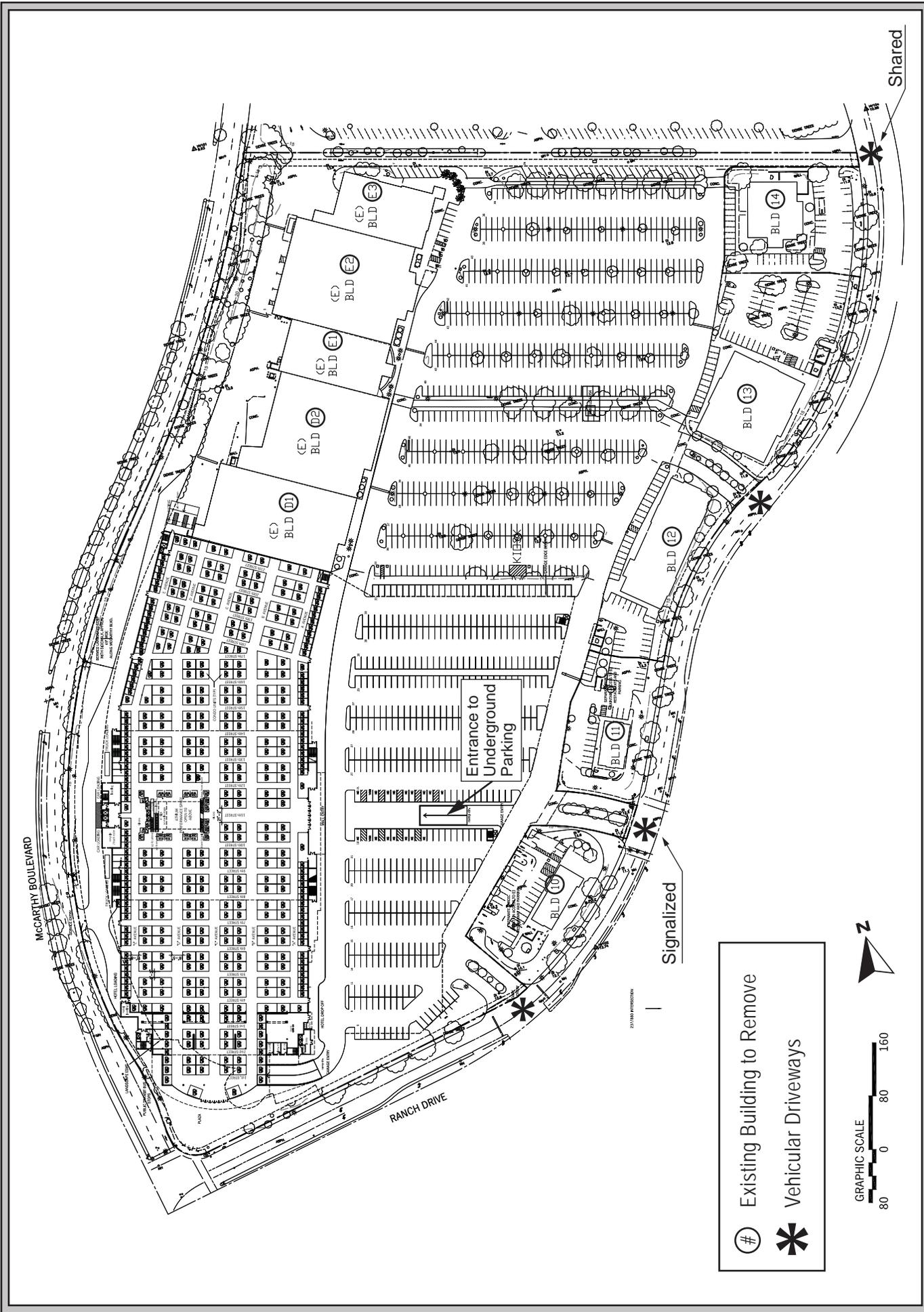
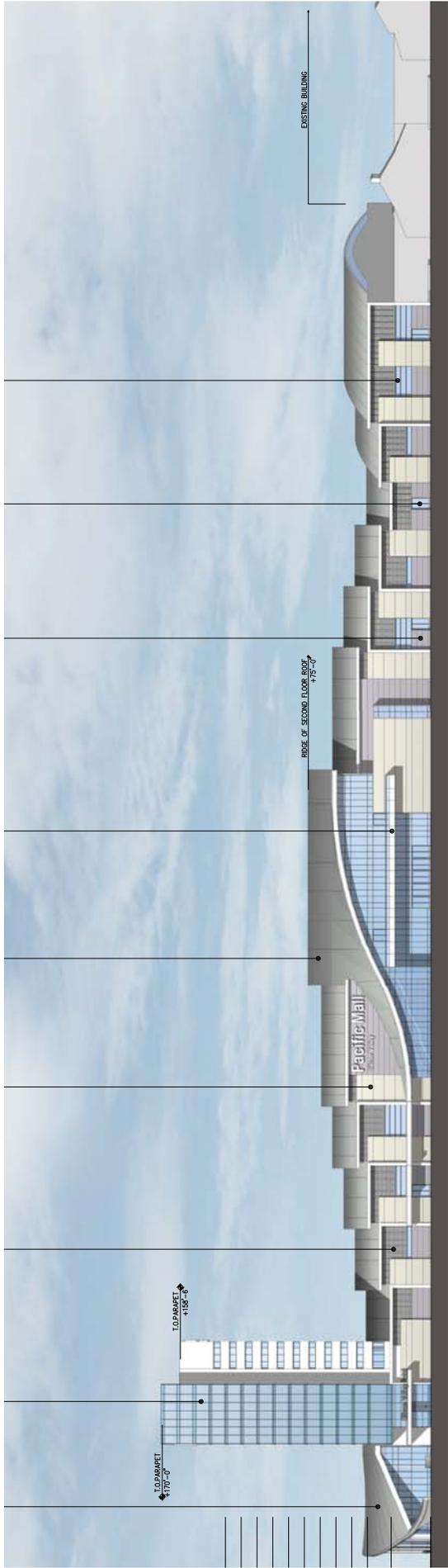


FIGURE A1

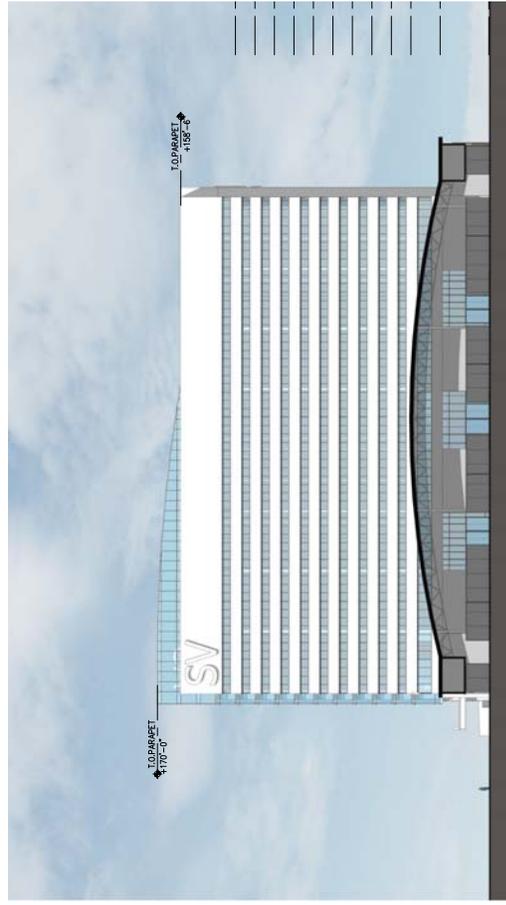
SITE PLAN



EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

BUILDING ELEVATIONS

FIGURE A2

TABLE 1 <i>Continued</i>			
Existing Buildings On-Site			
Building No.	Building Size	Within Project Boundary	Status
E1	12,000	Yes	To Remain
E2	27,100	Yes	To Remain
E3	11,000	Yes	To Remain
10	3,000	No	To Remain
11	2,000	No	To Remain
12	12,861	Yes	To Remain
13	15,529	Yes	To Remain
14	6,500	No	To Remain
Kiosk	210	Yes	To Remain
Total Existing Building Area to Remain			127,896 square feet

With the demolition of Buildings A1, A2, B, and C, the project site would have 127,896 square feet of retail/commercial space remaining. The total new retail space would be 292,186 square feet (a net increase of 152,476 square feet) and the hotel would be 178,692 square feet. When added to the existing retail space that will remain on-site, the total building area on the project site would increase to 598,774 square feet which equate to a floor area ratio (FAR) of 0.54. The current zoning designation allows an FAR of 0.50 and the project proposes a maximum allowed FAR of 0.54 in the zoning. The new retail space will not operate as traditional big-box stores but will have an open interior with more than 400 small “condo” shops laid out in a grid pattern. The “condos” would range in size from approximately 130 to 450 square feet.

The project site is currently accessed by three driveways along Ranch Drive and one driveway on McCarthy Boulevard. The site can also be accessed from the adjacent Walmart parking lot. Site access will not be altered as a result of the project.

There is currently a surface parking lot between the large commercial buildings along McCarthy Boulevard and the smaller buildings along Ranch Drive. The parking lot extends around Building A1 and dead ends near the McCarthy Boulevard/Ranch Drive intersection. There is also a small parking area behind Building B which is accessed from McCarthy Boulevard. There are additional parking areas surrounding the smaller commercial buildings at the western boundary of the site. The southern half of the main parking lot will be modified slightly to accommodate the entrance to the underground parking structure. The underground parking will be accessed by a ramp aligned with the main driveway entrance and a secondary ramp at the southeast corner of the new building. The project will include the construction of sidewalks along the western side of Ranch Drive and along the mall entry access roads consistent with the City’s General Plan to eliminate gaps in the pedestrian circulation system.

SECTION 2 ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS

This section describes the existing environmental conditions on and near the project site, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guideline 15370). Measures that are proposed by the applicant that will further reduce or avoid already less than significant impacts are categorized as “Avoidance Measures.”

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 Project Site

The project site is a relatively flat, irregularly shaped parcel that is currently developed with nine large, attached stores located along the western boundary of the site and five smaller detached stores located along the eastern boundary. The large buildings are generally rectangular structures with flat roofs. The buildings do, however, have decorative elements including portico like entrances with large support columns and peaked roofs that extend out from the main building façade. (see Photo 1) These entrances, along with a varying color scheme, delineate the individual stores. While the three chain restaurant buildings along Ranch Drive are visually consistent with the standard architecture for each brand name, the two smaller retail buildings mimic the design and entrance detail of the larger buildings. (see Photo 2)

There is a large central surface parking lot between the buildings with landscape trees along the parking aisles. The parking lot extends around the southernmost building and dead ends near the McCarthy Boulevard/Ranch Drive intersection. Where the parking lot dead ends is a large landscape area comprised of lawns, plants, walking paths, and a hardscape plaza. The buildings along Ranch Drive and McCarthy Boulevard are separated from the roadways by large landscape borders comprised of trees and shrubs.

4.1.1.2 Surrounding Land Uses

The project site is surrounded by a mix of retail, hotel, and office land uses with building heights varying between one and four stories. Immediately north of the project site is a large, free-standing commercial building that is currently occupied by Walmart. The building is typical of a big box store in that it is a simple rectangular structure with a flat roof. The building is surrounded by a large surface parking lot and perimeter landscaping. (see Photo 3)



PHOTO 1: View of the existing shopping center, looking southwest from the parking lot.



PHOTO 2: View of the existing shopping center, looking east from the parking lot.

PHOTOS 1 AND 2



PHOTO 3: View of the nearby Walmart, looking north from the project site.



PHOTO 4: View of the nearby hotel on the east side of Ranch Drive, looking south from the parking lot.

PHOTOS 3 AND 4



PHOTO 5: View of the nearby hotel on the east side of Ranch Drive, looking north from the parking lot.

PHOTO 5

East and south of the project site is Ranch Drive, a four-lane roadway that loops around the project site and the Walmart and reconnects to McCarthy Boulevard north of the project site. Dense landscaping lines both sides of Ranch Drive. Between Ranch Drive and I-880 is the remainder of the McCarthy Ranch shopping center. This area of the shopping center is also comprised of a mix of large and small retail buildings and includes two hotels. The retail buildings are of similar size and style as the buildings on the project site with the same decorative elements. The parking areas are more segmented, but have trees and perimeter landscaping consistent with the project site. The two hotels are four stories tall with varying roof lines and decorative porticos at the entrances. (see Photos 4 and 5)

West of the project site is McCarthy Boulevard, a four-lane roadway with a raised landscape median. West of McCarthy Boulevard is an office development and a large vacant parcel. The office buildings are modern with glass and stucco facades but no decorative architectural features. Coyote Creek is immediately west of the office buildings and has a trail located on top of a raised levee which separates the office development from the riparian corridor.

4.1.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
3. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
4. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

4.1.2.1 Aesthetic Impacts

Implementation of the project would result in the demolition of four of the large one-story retail buildings on-site and construction of a combined two-story retail building and 12-story hotel. The footprint of the new retail building will be slightly larger than the existing buildings and the hotel will be substantially taller than the other buildings in the immediate area (i.e., north of SR 237).

The proposed building will be more visually prominent than the existing buildings and will have a more modern architectural style with an undulating roofline and a substantial amount of glass panels that will differentiate it from the rest of the shopping center.

The project area is a mix of architectural styles with no particular design aesthetic being dominant. Because there is no predominant architectural style in the project area, the proposed building design would be compatible with the mixed visual character of the area. In addition, development of the site would be subject to the architectural review by City staff. Lastly, there are no scenic vistas or scenic resources on-site. Implementation of the proposed project would not block views of any designated scenic vistas or scenic resources off-site. For these reasons, the development of the project would not substantially degrade the existing visual character of the site or its surroundings. **(No Impact)**

In the City of Milpitas General Plan, the hilltops, hillsides, and ridgelines within Ed Levin Park are identified as scenic resources. These designated areas are far to the east, but still visible from the project site. There are no designated scenic resources west of I-680. The proposed hotel tower will partially block the view of the hilltops and ridgelines from a small segment of the Coyote Creek trail. The hillside panorama that forms the backdrop of the urbanized valley floor is, however, very wide and high. Because the view obstruction would be from a single location and would not affect views along a substantial portion of the trail, the project will have a less than significant impact on designated scenic vistas. **(Less Than Significant Impact)**

Visual Intrusion

The proposed building would be a maximum of 12 stories tall and would only overlook commercial/office and retail properties. In urban built-out environments properties are in close proximity to one another and complete privacy is not typical or necessary for retail and commercial/office businesses. While guests at the existing hotels would be more sensitive to a tall building in close proximity than the other businesses in the immediate project area, the existing hotel buildings are more than 450 feet away from the proposed hotel tower and would not be subject to visual intrusion. **(Less Than Significant Impact)**

Light and Glare

The project would include outdoor security lighting on the site, along walkways and entrance areas, and within the parking structure and surface parking lot. The outside lighting would be comparable in brightness to the ambient lighting in the surrounding area. Due to the height of the proposed hotel tower, the building would increase the amount of lighting on the site and its visibility off-site. Increased lighting on-site, relative to the existing outdoor lighting, would increase the level of illumination in the area. Nevertheless, the project will undergo architectural and site design review by Planning staff prior to issuance of building permits to ensure that the project would not adversely affect the visual quality of the area or create a substantial new source of light or glare for adjacent businesses (in particular the adjacent hotels), persons traveling on I-880, or residences to the east of I-880. The building will be approximately 450 feet from the Coyote Creek corridor and although visible, would not result in light spillover into the riparian corridor. Typical design requirements include directional and/or shielded lights to minimize the brightness and or glare of the lights on light sensitive uses. **(Less Than Significant Impact)**

Shade and Shadow

In an urban environment, virtually all land uses are subject to shading from adjacent properties to some extent. During the summer, shading may even be desirable. Shade and shadow impacts can

occur when a building or other structure substantially reduces natural sunlight on public or private open spaces.

The project site is surrounded by commercial/office and retail development that would not be impacted by increased shading from the proposed 12-story hotel tower. The proposed two-story retail building will only cast shadows on the adjacent parking lots and McCarthy Boulevard. **(No Impact)**

4.1.3 Conclusion

The project would have a less than significant impact on the visual character of the project area and will not have a significant impact on scenic vistas. The project would not create significant additional sources of light or glare, would not result in significant shade or shadow impacts, and it would not impact any scenic resources. The project would not result in any significant visual impacts. **(Less Than Significant Impact)**

4.2 AGRICULTURAL AND FOREST RESOURCES

4.2.1 Setting

The Santa Clara County Important Farmland 2010 Map designates the project site as *Urban and Built-Up Land* which is defined as land occupied by structures with a building density of at least one unit to a 1.5 acre parcel, or approximately six structures to a ten-acre parcel. Common examples include residential, industrial, institutional facilities, cemeteries, sanitary landfills, etc. The project site is surrounded by mostly urban and built-up land. There is no designated farmland adjacent to the site.¹ The site is not subject to a Williamson Act contract.

There are no forest land uses located on or adjacent to the project site.

4.2.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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"/>	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"/>	1,2,3
3. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,3
4. Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
5. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

¹ California Department of Conservation. *Santa Clara County Important Farmland Map*. <<ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/sc110.pdf>> Accessed October 12, 2012

4.2.2.1 Impacts from the Proposed Project

Implementation of the proposed project will result in the demolition of existing commercial buildings and the construction of a combined retail/hotel building on a site currently developed with commercial buildings and associated infrastructure. The project will not convert *Prime Farmland*, *Unique Farmland*, or *Farmland of Statewide Importance* to a non-agricultural use. The project will not conflict with existing zoning for agricultural use or a Williamson Act contract. The proposed development will not interfere with agricultural operations or facilitate unplanned conversion of farmland elsewhere in the Milpitas area to non-agricultural uses. The project site is not a forest resource, nor are there forest lands in the vicinity. For these reasons, the project will not result in a significant impact to agricultural or forest resources. **(No Impact)**

4.2.3 Conclusion

The project will not result in impacts to agricultural or forest resources. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Setting

The project site is currently developed with 267,606 square feet of commercial buildings and a large surface parking lot. Existing air emissions include employee, customer, and delivery trips to and from the project.

4.3.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Conflict with or obstruct implementation of the applicable air quality plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,4,5
2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,4,5
3. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,4,5
4. Expose sensitive receptors to substantial pollutant concentrations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,4
5. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

4.3.3 Conclusion

As proposed, the project would demolish 139,710 square feet of the existing commercial space and construct a 12-story, 250 room hotel with ground floor and second floor retail. The total net new retail space would be 292,186 square feet and the hotel would be 178,692 square feet. The net increase in commercial space on-site plus a new hotel could significantly increase daily traffic trips to and from the project site.

Based on the potential to increase local and regional air pollutants due to an increase in daily traffic trips associated with the project site and the increase in square footage on-site, the proposed project could result in a significant and unavoidable impact to air quality. The analysis of air quality impacts is presented in the EIR. No further analysis will be provided in this Initial Study.

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on tree survey prepared by *Concentric Ecologies* in October 2012. A copy of this report is provided in Appendix D of this document.

4.4.1 Setting

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

The project site is located in developed urban habitat in the City of Milpitas. There are no waterways, wetlands, or other sensitive habitats located on or adjacent to the project site. The nearest waterway is Coyote Creek located approximately 450 feet west/southwest of the project site. The project site is mostly surrounded by industrial and commercial development. There is also a large vacant lot on the west side of McCarthy Boulevard.

Vegetation in the vicinity of the project site includes landscaping which primarily consists of grass, shrubs, and street trees. Habitats in developed areas such as the project area are extremely low in species diversity and include predominantly urban adapted birds and animals. There are no sensitive habitats or special status plant or animal species on-site, due to a lack of habitat to support them.

4.4.1.1 Conservation Plans

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) has recently been adopted by six local entities in Santa Clara County although it will not be in effect until both State and Federal Permits are issued and an implementing agency, the Santa Clara Valley Habitat Agency, is in place. Although not yet implemented, it is likely that the SCVHP will be in effect in late 2013 or early 2014.

The SCVHP was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, the Santa Clara Valley Water District, and the Valley Transportation Authority (collectively termed the ‘Local Partners’), the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife. The SCVHP is a conservation program to promote the recovery of endangered species in more than one-half of Santa Clara County² while accommodating planned development, infrastructure and maintenance activities. The species of concern identified in the SCVHP include, but are not limited to, the California tiger salamander, California red-legged frog, western burrowing owl, Bay Checkerspot butterfly, and a number of species endemic to serpentine grassland and scrub.

² Santa Clara County has a land area of 835,449 acres; the study area of the Santa Clara HCP/NCCP encompasses 519,506 acres, or approximately 62 percent of the county.

The area covered by the SCVHP lies within Santa Clara County with the northern edge generally defined by the boundary of Alameda and Santa Clara Counties, *excluding* the Milpitas City Limits. Santa Clara County has a land area of 835,449 acres; the SCVHP primary study area encompasses 519,506 acres, or approximately 62 percent of the county. About 100,000 acres of this area (19 percent) supports urban development. Within the City of San José, the northern boundary is the northern edge of the “bufferlands” of the Water Pollution Control Plant facility on Zanker Road, west of Coyote Creek and the project site. The study area of the SCVHP is defined as the area in which all covered activities would occur, impacts would be evaluated, and conservation activities would be implemented. Projects and activities of the other jurisdictions (such as the City of Milpitas), which are not Permittees, are not covered.

In addition to the SCVHP area defined above, an expanded study area for burrowing owl conservation was identified to the north and west in portions of the cities of San José, Santa Clara, Mountain View, Milpitas, and Sunnyvale; in Fremont in Alameda County; and a small portion of San Mateo County. The expanded study area for burrowing owl conservation that falls outside of the primary SCVHP study area is 48,464 acres in size and includes the project area within the City of Milpitas. The allowable activities covered by the SCVHP in this expanded study area are limited only to conservation actions for western burrowing owl.

Expanded HCP/NCCP Area for Burrowing Owl Conservation

The project site is currently fully developed and does not provide suitable habitat for western burrowing owl that could be used for burrowing owl conservation.

Indirect Impacts to Sensitive Serpentine Habitats Identified in the SCVHP

The U.S. Fish and Wildlife Service (USFWS) has identified critical habitat for the federally listed threatened Bay Checkerspot butterfly (73 FR 50406) south of US 101 and Yerba Buena Road in the City of San José. The conservation of critical habitat is considered essential for the conservation of a federally listed species. Critical habitat for the Bay Checkerspot butterfly occurs on nutrient-poor serpentine or serpentine-like grasslands that support at least two of the three butterfly’s larval host plants, California plantain, dense flower owl’s clover, and purple owl’s clover. Non-native grasses have been reported to increase in these habitats, crowding out the native forbs needed by the Bay Checkerspot butterfly, due to increased nitrogen deposition from human sources (Weiss 1999).

The closest serpentine grasslands covered by the SCVHP are located in the Silver Creek Hills and Coyote Ridge in the Edenvale, Evergreen and San Felipe Planning Areas of San José. The Silver Creek Hills and Coyote Ridge are approximately 11 to 15 miles southeast of the project site.

Atmospheric nitrogen deposition is a complex process by which reactive chemical forms of nitrogen (N) – nitrogen oxides (NO_x), ammonia (NH₃), and other compounds – are deposited onto plant and soil surfaces. These forms of nitrogen can enter ecosystems and act as nitrogen fertilizer to plants. Some nitrogen deposition is a normal part of the “nitrogen cycle” of nitrogen compounds between water, soil, and the atmosphere.

Nitrogen deposition contribution estimates in Santa Clara County were made as a part of the development of the SCVHP (Appendix E of the SCVHP). About 46 percent of nitrogen deposition on habitat areas of concern for the base years (2005-2007) was estimated to come from existing development and traffic generated locally *within* the SCVHP study area. The remainder of Santa Clara County (which includes the City of Milpitas) was estimated to contribute a substantially smaller amount (17 percent of the nitrogen deposition) while the other eight Bay area counties account for about 11 percent. The remaining 26 percent of existing, baseline emissions are derived from sources elsewhere in California and in Nevada. Milpitas' service population (jobs + residents) is 4.3 percent of Santa Clara County, and therefore the City's contribution as a percentage of total NOx emissions modeled by the SCVHCP conservatively is about 2.7 percent, since the County produces 63 percent of total emissions (46 percent within the SCVHCP area and 17 percent in the remainder of the County). Nitrogen deposition modeling completed for future years (2035 and 2060) as a part of the SCVHCP process assumed that urban and rural development in the County and broader San Francisco Bay Area is expected to increase air pollutant emissions due to an increase in passenger and commercial vehicle trips and other new industrial and nonindustrial sources.

For commercial uses, like those on the project site, the primary source of nitrogen emissions are vehicle emissions. In 2005, the annual citywide vehicle miles traveled (VMT) for Milpitas was approximately 697,265,000, or 1.9 million vehicle miles per day.³ To provide context, the existing daily trips for the retail uses on the site are approximately 8,440 which equates to approximately 59,080 vehicle miles per day (based on an average trip length of seven miles). Also in comparison, the average daily traffic counts on U.S. 101 within the SCVHP area and closer to the serpentine grassland covered in the SCVHCP were modeled as over 100,000 vehicles in 2005 and increasing to 166,360 daily trips by 2030 (Appendix E of the SCVHP).

It is important to note that the further away the receptor site (serpentine grassland) is from emission sources, the less the habitat is likely to be affected by nitrogen compounds in the atmosphere from that source.⁴ Mobile emissions from vehicle trips closer to the serpentine grasslands, therefore, would result in a greater proportion of expected nitrogen deposition.

A conservation strategy in the SCVHP includes collection of fees within the SCVHP area based upon the generation of new vehicle trips to fund acquisition and management of serpentine grasslands in the Coyote Ridge area. The goal of this strategy is to improve the viability of existing Bay Checkerspot butterfly populations, increase the number of populations, and expand the geographic distribution to ensure the long-term persistence of the species in the SCVHP area. A nexus study was completed for the SCVHP to assist with identifying appropriate fees to fund measures in the SCVHP.⁵ The nitrogen deposition fee was calculated based on SCVHP costs related to mitigating the impacts of airborne nitrogen deposition from covered activities in the SCVHP area. A nexus

³ City of Milpitas. 2013. Climate Action Plan A Qualified Greenhouse Gas Reduction Strategy. Public Draft March 2013 (Appendix B). Accessed April 24, 2013. Available at: <http://www.ci.milpitas.ca.gov/government/planning/climate_documents.asp>. Note: 2005 is a baseline year for both the City of Milpitas Climate Action Plan and the SCVHCP (2005-2007 baseline was used for nitrogen modeling).

⁴ California Energy Commission, 2012. *Small Power Plant Exemption Initial Study and Negative Declaration Recommendation, Xeres Ventures LLC, Santa Clara SC-1 Data Center (CEC-700-2012-001)*.

⁵ Willdan Financial Services. 2012. *Santa Clara Valley Habitat Plan Development Fee Nexus Study*. June 30, 2012.

study of impacts and /or appropriate contributions from projects or jurisdictions outside the SCVHP area was not included in the study, as these projects outside the SCVHP are not covered activities nor are these jurisdictions participating as Local Partners.

4.4.1.2 Trees

Mature trees (both native and non-native) are valuable to the human environment for the benefits they supply for resisting global climate change (i.e., carbon dioxide absorption), protection from weather, because they provide nesting and foraging habitat for raptors and other migratory birds, and because they are a visual enhancement. Therefore, a tree survey was completed to document and evaluate the mature trees on-site.

On developed commercial property, such as the project site, the City of Milpitas Tree Ordinance defines an ordinance-sized tree as any tree having a trunk that measures 37 inches or greater in circumference (approximately 12 inches in diameter) at a height of four and one-half feet above the ground. A multi-stem tree is considered a single tree and ordinance-size if any one of its trunks measures 37 inches or greater in circumference. A tree removal permit is required from the City for the removal of ordinance-sized trees.

Trees located on the project site are a mixture of native and non-native species, in varying sizes and levels of health. Within the boundaries of the construction area of the project site, there are a total of 226 trees. Of the 226 trees there are 47 cedars, 35 evergreen pears, 33 sycamores, 28 alders, 17 fan palms, 15 purple-leaf plums, 14 Brazilian peppers, 12 crabapples, 11 cherries, seven Japanese Berries, four tristainias, two crape myrtles, and one pine.

The following table lists all trees identified on-site during the tree survey. The location of the trees is shown on Figures A3 and A4.

Tree No.	Common Name	Diameter⁶ In Inches	Circumference in Inches	Health	Preservation Suitability
214	Sycamore	11	34	Average	Moderate
215	Sycamore	12	37	Average	Moderate
216	Sycamore	9	28	Average	Moderate
217	Evergreen Pear	8	25	Average	Moderate
218	Evergreen Pear	8	25	Average	Moderate
219	Evergreen Pear	9	28	Average	Moderate
220	Evergreen Pear	9	28	Average	Moderate
221	Evergreen Pear	8	25	Average	Moderate
222	Sycamore	9	28	Average	Moderate
223	Sycamore	12	37	Average	Moderate
224	Sycamore	10	31	Average	Moderate
225	Sycamore	10	31	Average	Moderate

⁶ Measured at 48 inches above grade.

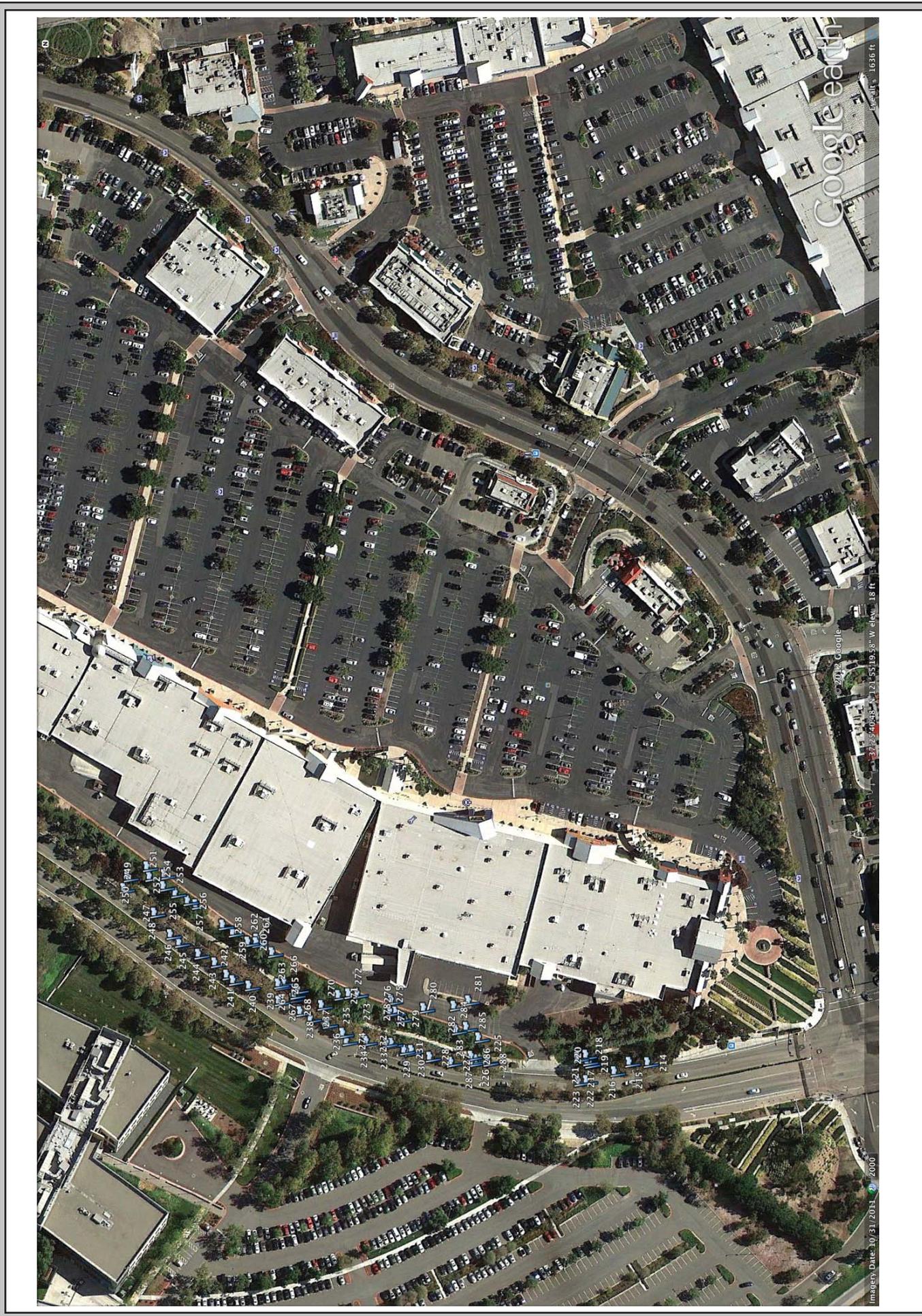
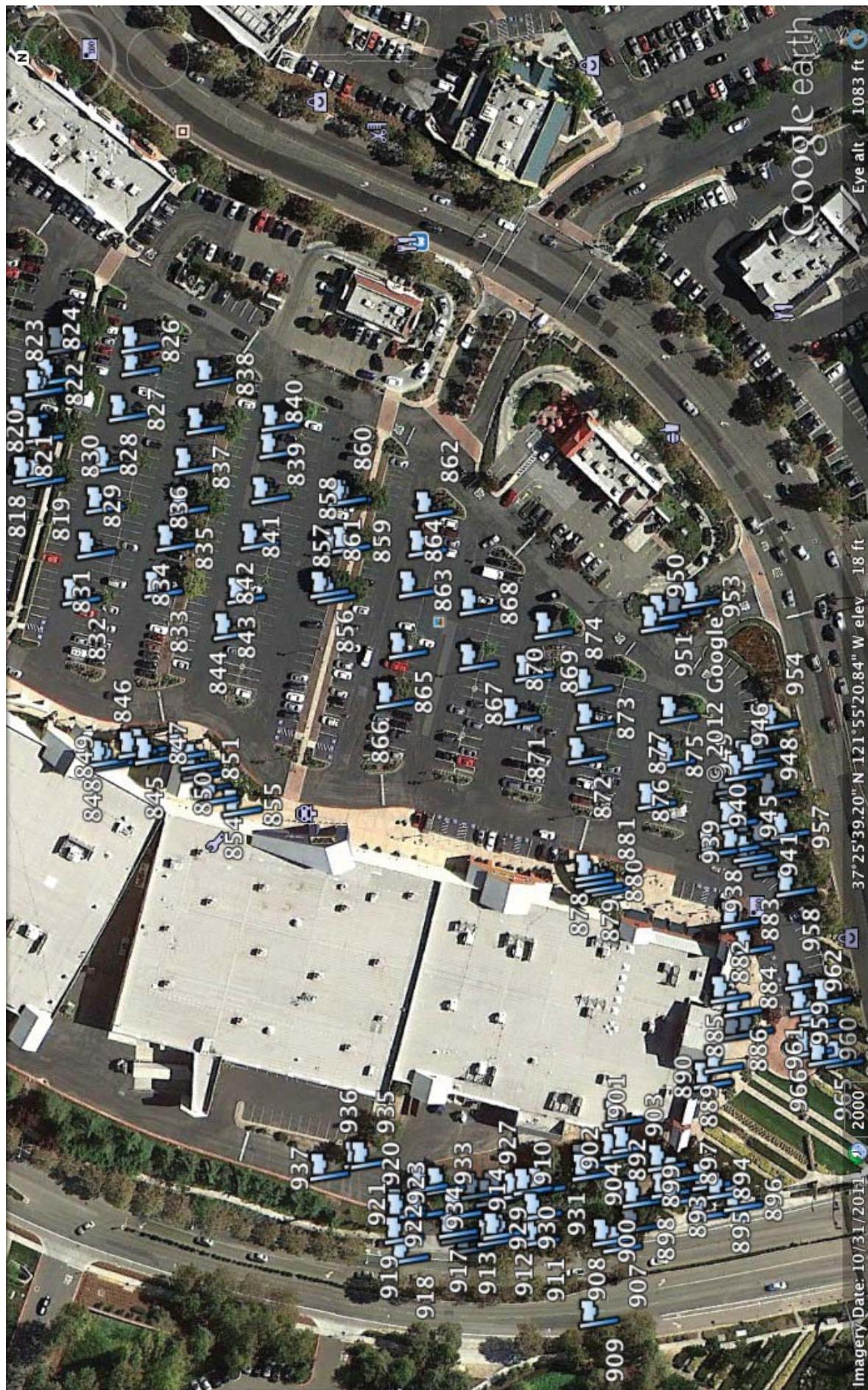


FIGURE A3

TREE MAP 1



TREE MAP 2

FIGURE A4

TABLE 2 Continued
Tree Survey

Tree No.	Common Name	Diameter⁷ In Inches	Circumference in Inches	Health	Preservation Suitability
226	Sycamore	9	28	Average	Moderate
227	Sycamore	10	31	Average	Moderate
228	Sycamore	9	28	Average	Moderate
229	Sycamore	10	31	Average	Moderate
230	Cherry	7	22	Average	Moderate
231	Cherry	9	28	Average	Moderate
232	Cherry	5	15	Average	Moderate
233	Sycamore	11	34	Average	Moderate
234	Sycamore	12	37	Average	Moderate
235	Sycamore	11	34	Average	Moderate
236	Sycamore	9	28	Average	Moderate
237	Sycamore	8	25	Average	Moderate
238	Sycamore	9	28	Average	Moderate
239	Sycamore	11	34	Average	Moderate
240	Sycamore	12	37	Average	Moderate
241	Sycamore	11	34	Average	Moderate
242	Sycamore	11	34	Average	Moderate
243	Sycamore	11	34	Average	Moderate
244	Sycamore	10	31	Average	Moderate
245	Sycamore	7	22	Fair	Poor
246	Sycamore	10	31	Average	Moderate
247	Sycamore	10	31	Average	Moderate
248	Sycamore	9	28	Average	Moderate
249	Sycamore	9	28	Average	Moderate
250	Purple-Leaf Plum	7	22	Fair	Poor
251	Cedar	14	44	Average	Moderate
252	Cedar	11	34	Average	Moderate
253	Cedar	12	37	Average	Moderate
254	Cedar	11	34	Average	Moderate
255	Cedar	12	37	Average	Moderate
256	Cedar	15	47	Average	Moderate
257	Cedar	13	41	Average	Moderate
258	Pine	10	31	Fair	Poor
259	Cedar	12	37	Average	Moderate
260	Cedar	10	31	Average	Moderate
261	Cedar	11	34	Average	Moderate
262	Cedar	11	34	Average	Moderate
263	Cedar	10	31	Average	Moderate
264	Purple-Leaf Plum	7	22	Fair	Poor

⁷ Measured at 48 inches above grade.

TABLE 2 Continued
Tree Survey

Tree No.	Common Name	Diameter In Inches	Circumference in Inches	Health	Preservation Suitability
265	Purple-Leaf Plum	5	15	Fair	Poor
266	Cedar	10	31	Average	Moderate
267	Cedar	10	31	Average	Moderate
268	Cedar	12	37	Average	Moderate
269	Purple-Leaf Plum	7	22	Fair	Poor
270	Cedar	12	37	Average	Moderate
271	Cedar	11	34	Average	Moderate
272	Cedar	10	31	Average	Moderate
273	Cedar	10	31	Average	Moderate
274	Cherry	6	19	Average	Moderate
275	Cedar	11	34	Average	Moderate
276	Cedar	12	37	Average	Moderate
277	Cherry	10	31	Average	Moderate
278	Cedar	9	28	Average	Moderate
279	Cedar	10	31	Average	Moderate
280	Cedar	11	34	Average	Moderate
281	Cedar	14	44	Average	Moderate
282	Cedar	10	31	Average	Moderate
283	Cedar	11	34	Average	Moderate
284	Cedar	11	34	Average	Moderate
285	Cedar	10	31	Average	Moderate
286	Purple-Leaf Plum	3	9	Fair	Poor
287	Purple-Leaf Plum	4	12	Fair	Poor
288	Purple-Leaf Plum	3	9	Fair	Poor
816	Crape Myrtle	7	22	Average	Moderate
817	Crape Myrtle	7	22	Average	Moderate
818	Brazilian Pepper	14	44	Average	Moderate
819	Brazilian Pepper	12	37	Average	Moderate
820	Brazilian Pepper	10	31	Average	Moderate
821	Brazilian Pepper	10	31	Average	Moderate
822	Brazilian Pepper	10	31	Average	Moderate
823	Brazilian Pepper	14	44	Average	Moderate
824	Brazilian Pepper	16	50	Average	Moderate
825	Brazilian Pepper	11	34	Average	Moderate
826	Japanese Berry	10	31	Average	Moderate
827	Alder	5	15	Fair	Poor
828	Alder	5	15	Fair	Poor
829	Alder	7	22	Fair	Poor
830	Alder	7	22	Fair	Poor
831	Alder	7	22	Fair	Poor
832	Alder	6	19	Fair	Poor

TABLE 2 Continued
Tree Survey

Tree No.	Common Name	Diameter In Inches	Circumference in Inches	Health	Preservation Suitability
833	Alder	12	37	Fair	Poor
834	Alder	12	37	Fair	Poor
835	Alder	12	37	Fair	Poor
836	Alder	10	31	Fair	Poor
837	Alder	11	34	Fair	Poor
838	Japanese Berry	10	31	Average	Moderate
839	Japanese Berry	8	25	Average	Moderate
840	Alder	4	12	Fair	Poor
841	Alder	4	12	Fair	Poor
842	Alder	5	15	Fair	Poor
843	Alder	4	12	Fair	Poor
844	Alder	5	15	Fair	Poor
845	Fan Palm	14	44	Average	Moderate
846	Fan Palm	14	44	Average	Moderate
847	Fan Palm	14	44	Average	Moderate
848	Tristainia	4	12	Average	Moderate
849	Tristainia	4	12	Average	Moderate
850	Fan Palm	13	41	Average	Moderate
851	Fan Palm	12	37	Average	Moderate
852	Fan Palm	12	37	Average	Moderate
853	Fan Palm	12	37	Average	Moderate
854	Tristainia	4	12	Average	Moderate
855	Tristainia	4	12	Average	Moderate
856	Brazilian Pepper	13	41	Average	Moderate
857	Brazilian Pepper	13	41	Average	Moderate
858	Brazilian Pepper	10	31	Average	Moderate
859	Brazilian Pepper	15	47	Average	Moderate
860	Brazilian Pepper	12	37	Average	Moderate
861	Brazilian Pepper	12	37	Average	Moderate
862	Japanese Berry	10	31	Average	Moderate
863	Alder	5	15	Fair	Poor
864	Alder	4	12	Fair	Poor
865	Alder	4	12	Fair	Poor
866	Alder	6	19	Fair	Poor
867	Alder	6	19	Fair	Poor
868	Alder	6	19	Fair	Poor
869	Japanese Berry	9	28	Average	Moderate
870	Alder	5	15	Fair	Poor
871	Alder	4	12	Fair	Poor
872	Alder	6	19	Fair	Poor
873	Alder	6	19	Fair	Poor

TABLE 2 Continued
Tree Survey

Tree No.	Common Name	Diameter In Inches	Circumference in Inches	Health	Preservation Suitability
874	Japanese Berry	7	22	Average	Moderate
875	Japanese Berry	7	22	Average	Moderate
876	Alder	7	22	Fair	Poor
877	Alder	6	19	Fair	Poor
878	Fan Palm	12	37	Average	Moderate
879	Fan Palm	12	37	Average	Moderate
880	Fan Palm	11	34	Average	Moderate
881	Fan Palm	12	37	Average	Moderate
882	Purple-Leaf Plum	5	15	Average	Moderate
883	Purple-Leaf Plum	5	15	Average	Moderate
884	Purple-Leaf Plum	7	22	Average	Moderate
885	Fan Palm	12	37	Average	Moderate
886	Fan Palm	12	37	Average	Moderate
887	Fan Palm	17	53	Average	Moderate
888	Purple-Leaf Plum	7	22	Average	Moderate
889	Fan Palm	12	37	Average	Moderate
890	Fan Palm	11	34	Average	Moderate
891	Fan Palm	12	37	Average	Moderate
892	Evergreen Pear	8	25	Average	Moderate
893	Evergreen Pear	8	25	Average	Moderate
894	Evergreen Pear	7	22	Average	Moderate
895	Evergreen Pear	9	28	Average	Moderate
896	Evergreen Pear	9	28	Average	Moderate
897	Evergreen Pear	8	25	Average	Moderate
898	Evergreen Pear	10	31	Average	Moderate
899	Evergreen Pear	8	25	Average	Moderate
900	Evergreen Pear	6	19	Average	Moderate
901	Evergreen Pear	7	22	Average	Moderate
902	Evergreen Pear	9	28	Average	Moderate
903	Evergreen Pear	9	28	Average	Moderate
904	Evergreen Pear	10	31	Average	Moderate
905	Evergreen Pear	8	25	Average	Moderate
906	Evergreen Pear	8	25	Average	Moderate
907	Evergreen Pear	9	28	Average	Moderate
908	Evergreen Pear	8	25	Average	Moderate
909	Evergreen Pear	8	25	Average	Moderate
910	Evergreen Pear	9	28	Average	Moderate
911	Evergreen Pear	8	25	Dead	----
912	Evergreen Pear	7	22	Average	Moderate
913	Evergreen Pear	9	28	Average	Moderate
914	Cherry	8	25	Average	Moderate

TABLE 2 Continued
Tree Survey

Tree No.	Common Name	Diameter In Inches	Circumference in Inches	Health	Preservation Suitability
915	Cherry	8	25	Average	Moderate
916	Cherry	8	25	Average	Moderate
917	Cherry	6	19	Average	Moderate
918	Cherry	11	34	Average	Moderate
919	Cherry	8	25	Average	Moderate
920	Cedar	10	31	Average	Moderate
921	Cedar	18	56	Average	Moderate
922	Cedar	10	31	Average	Moderate
923	Cedar	15	47	Average	Moderate
924	Cedar	12	37	Average	Moderate
925	Cedar	11	34	Average	Moderate
926	Cedar	14	44	Average	Moderate
927	Cedar	10	31	Average	Moderate
928	Cedar	6	19	Fair	Moderate
929	Cedar	12	37	Average	Moderate
930	Cedar	14	44	Average	Moderate
931	Cedar	10	31	Average	Moderate
932	Cedar	13	41	Average	Moderate
933	Cedar	10	31	Average	Moderate
934	Cedar	10	31	Average	Moderate
935	Cedar	10	31	Average	Moderate
936	Cedar	8	25	Average	Moderate
937	Cedar	11	34	Average	Moderate
938	Crabapple	8	25	Average	Moderate
939	Crabapple	10	31	Average	Moderate
940	Crabapple	8	25	Average	Moderate
941	Crabapple	10	31	Average	Moderate
942	Crabapple	12	37	Average	Moderate
943	Crabapple	10	31	Average	Moderate
944	Crabapple	9	28	Average	Moderate
945	Crabapple	10	31	Average	Moderate
946	Crabapple	8	25	Average	Moderate
947	Crabapple	9	28	Average	Moderate
948	Crabapple	10	31	Average	Moderate
949	Crabapple	10	31	Average	Moderate
950	Purple-Leaf Plum	4	12	Fair	Poor
951	Purple-Leaf Plum	4	12	Fair	Poor
952	Purple-Leaf Plum	4	12	Fair	Poor
953	Purple-Leaf Plum	4	12	Fair	Poor
954	Sycamore	10	31	Average	Moderate
955	Sycamore	11	34	Average	Moderate

TABLE 2 Continued
Tree Survey

Tree No.	Common Name	Diameter In Inches	Circumference in Inches	Health	Preservation Suitability
956	Sycamore	12	37	Average	Moderate
957	Sycamore	11	34	Average	Moderate
958	Sycamore	12	37	Average	Moderate
959	Evergreen Pear	6	19	Average	Moderate
960	Evergreen Pear	9	28	Average	Moderate
961	Evergreen Pear	8	25	Average	Moderate
962	Evergreen Pear	7	22	Average	Moderate
963	Evergreen Pear	7	22	Average	Moderate
964	Evergreen Pear	8	25	Average	Moderate
965	Evergreen Pear	6	19	Average	Moderate
966	Evergreen Pear	5	15	Average	Moderate

4.4.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
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 Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
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"/>	1,2
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,6
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,7

4.4.2.1 Biological Resources Impacts

Because of the history of development in the project area, no natural or sensitive habitats are present on the project site. As a result, no substantial impacts to natural plant communities or habitats would occur as a result of the project. In addition, implementation of the proposed project would not impact any special status or endangered species. The project would not conflict with any local policies or ordinances that protect biological resources. The project site is not located within an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP) or other approved local, regional, or State habitat conservation plan. **(No Impact)**

Nesting Raptors and Migratory Birds

The project site is in a highly urbanized area and does not contain any habitat that would support endangered or special status species such as the Western Burrowing Owl. The entire site is developed and it is unlikely that the site is utilized by raptors as foraging habitat. It is also unlikely that this site is used as nesting habitat, particularly since there is high quality habitat close to the project site within the Coyote Creek riparian corridor.

Because of the low probability of the site being utilized by tree-nesting raptors and because there is high quality habitat within close proximity to the project site in which raptors could forage and nest, development of this site and, subsequently, the loss of mature trees would have a less than significant impact on raptors. Relocation of mature raptors or migratory birds would not, by itself, be significant.

If there are nesting raptors on-site, however, construction during the breeding season could result in the loss of individual eggs. Nesting raptors are among the species protected under both provisions of the Migratory Bird Treaty Act and California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 2800. Demolition and construction disturbance near raptor or other migratory bird nests can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFW. Any loss of fertile eggs, nesting raptors or other migratory birds, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory birds nests:

MM BIO 1-1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August.

MM BIO 1-2: If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction.

4.4.2.2 Bird Collisions

The South Bay is located along the Pacific Flyway for migratory birds and the mosaic of habitats at the edge of the Bay and along riparian corridors provide areas where large-scale movements of birds may occur during both migration and as a part of daily movements between roosting and foraging areas.

The project includes construction of a 12-story building, replacing existing one- to two-story buildings. Intensification of development within established urban areas may result in additional bird collisions with new structures by urban adapted bird species that are currently using habitats within these urban areas. These urban bird species are regionally abundant and adapted to urban development and their possible collisions with new buildings in developed areas of the City set back from riparian corridors would not result in substantive impacts on regional bird populations. In addition, the proposed hotel would be variable in form and curtains and architectural details in window areas would make the building more visible to birds, which should avoid or limit bird collisions.

Many birds migrate at night when it is difficult for them to see structures such as tall buildings and power lines in their path. In addition, birds migrating at night are often attracted to sources of artificial light, particularly during inclement weather. As a result, bright lights on buildings can result in bird collisions with the buildings. Even during the day, birds may collide with windows or with tall, glass-covered buildings.

The proposed hotel structure would be approximately 450 feet from Coyote Creek and in an existing developed area that does not support high or moderate quality habitat for foraging or nesting. This reduces the potential for structures to become obstacles to birds ascending or descending to habitats. As a condition of approval, the proposed lighting plan will be reviewed by a qualified ornithologist to ensure that light intensity and frequency will not attract night migrating birds or result in substantial bird mortality. **(Less Than Significant Impact)**

4.4.2.3 Effects on Project Implementation of the Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

As previously discussed, the City of Milpitas is not one of the Local Partners in Santa Clara County that has adopted, or has activities covered by, the SCVHP.

Expanded HCP/NCCP Area for Burrowing Owls

As previously noted, the project site is currently fully developed and does not provide suitable habitat for Western Burrowing Owls that could be used for burrowing owl conservation. Redevelopment of the project site would not reduce the area of habitat in northern Santa Clara County available for possible burrowing owl conservation activities with the goal of increasing local burrowing owl populations. **(No Impact)**

Indirect Effects on Sensitive Serpentine Habitats on Coyote Ridge

The City of San José, in response to the Notice of Preparation of the Draft EIR for the proposed project, raised the issue of nitrogen emissions from new project vehicle trips and their possible effect on SCVHP covered species found in serpentine grassland habitats on Coyote Ridge, approximately 15 miles southeast of the project site.

The TIA prepared for the project estimates that implementation of the proposed project would result in a net increase of 5,649 daily trips compared to existing conditions of approximately 8,440 daily trips for the area to be redeveloped and a larger number of trips for the entire shopping center site. Approximately 50 percent of hotel trips and 60 percent of new retail trips are projected to originate or end south of the project site in San Jose. This means a substantial proportion (roughly half) of the project's daily trips are expected to have a trip end to the south, within the SCVHCP boundaries, and therefore are accounted for by the SCVHCP, whether the trip is a diverted trip or a new trip from new development within the SVCHCP plan area that will pay fees. Given the relatively small increase in vehicle trips for the proposed redevelopment (e.g., compared to the over 100,000 average daily trips on U.S. 101 and 87,000 average daily trips on SR 87 identified as a part of SCVHP modeling, vehicle trips within the approximately 100,000 acres of urban development within the SCVHP area, the remainder of Milpitas, and the County of Santa Clara) and the distance between the majority of the project trips and the sensitive habitat, the project's vehicle and area emissions would

not by themselves individually affect serpentine habitat, or the special status plants and butterflies occupying that habitat, nor make a cumulatively considerable contribution to cumulative nitrogen deposition emissions that could affect serpentine grassland habitat used by Bay Checkerspot butterfly and other covered species in the Coyote Ridge area. The cumulative impacts from regional nitrogen deposition (whether inside or outside the SCVHCP) will be feasibly mitigated by the SCVHCP's conservation strategies, and individual development projects should not be, except under the most unusual circumstances due to substantial scale or immediate proximity to serpentine habitat, considered to provide cumulatively considerable contributions. This is evident in the SCVHCP's treatment of "pipeline" projects⁸, in that these developments occurring in San Jose and the other partner agencies' jurisdictions, which will generate net new nitrogen emissions but are not required to provide any mitigation for nitrogen deposition because they will predate the SCVHCP, are considered less than cumulatively considerable. **(Less Than Significant Impact)**

4.4.2.4 Trees

Due to the extent of demolition that will be required to implement the proposed project, including the underground parking structure, all 226 landscape trees on-site will be removed. Of the 226 trees to be removed, 50 are ordinance sized trees. New landscaping trees will be required; nevertheless, the loss of 50 ordinance sized trees, which are protected under the Milpitas Municipal Code, would be a significant impact.

While 50 of the 226 trees are protected under the Municipal Code, the total loss of trees would also be significant because mature trees provide protection from the weather by shading buildings and buffering them from rain and wind and help to filter carbon dioxide out of the air. Trees also enhance the visual character of the local community. Due to design of the proposed project (i.e., underground parking), trees planted on-site will be incapable of growing as large as the mature trees currently on-site.

Please see Section 4.1 of this Initial Study for a complete discussion of the visual impacts and Section 4.4 of the EIR for a complete discussion on global climate change impacts.

Impact BIO-2: The loss of 226 trees on-site, including 50 ordinance sized trees, would be a significant impact. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures will be implemented to reduce the impact of the loss of protected trees:

MM BIO 2-1: In conformance with the City of Milpitas Municipal Code, all trees removed from the site that measure 37-inches or greater in circumference (12 inches in diameter) at 48 inches above the ground surface will be replaced at a 3:1 ratio

⁸ Pipeline projects are those that are pending and going through a Local Partner jurisdiction's entitlement process while the SCVHCP was being prepared and have been approved prior to the SCVHCP's effective date (anticipated late 2013 or early 2014) and are implemented (i.e. receiving building or grading permit) with 12 months.

within the project site. The species and size of the replacement trees will be determined by City staff.

MM BIO 2-2: Due to the proposed underground parking structure, it may not be possible to plant all replacement trees on-site. Trees that are removed but cannot be mitigated for on-site will be mitigated by fees paid to the City. The funds will be deposited in the City's Tree Replacement Fund and will be used to plant trees within the City of Milpitas.

4.4.3 Conclusion

With implementation of the proposed mitigation, the project would not result in substantial impacts to biological resources. **(Less Than Significant Impact with Mitigation)**

4.5 CULTURAL RESOURCES

The following information is based, in part, on an archaeological literature review prepared by *Holman & Associates* in October 2012. The report is on file at the Milpitas Planning Department.

4.5.1 Existing Setting

The City of Milpitas was once part of the territory occupied by the Tamyen tribelet of the Ohlone Indians (originally referred to as Costanoan). Two notable Native American village sites lie within the City limits, a shellmound dating to the 18th century located near Elmwood Rehabilitation Center and the approximately 3,000 year old Alviso Adobe located near the corner of Calaveras Boulevard and Piedmont Road.

During the historic period, in 1769, the City of Milpitas was included in the route of the Gaspar de Portola expedition. The area was also a stopover point on the immigrant trail between Sutter's Fort and San José during the 1800s.

Although there are no existing conditions or immediate evidence that would suggest the presence of subsurface historic or prehistoric resources, the project site is located in a culturally sensitive area due to known prehistoric and historic occupation of Milpitas and close proximity to Coyote Creek. Native American settlements are commonly associated with the abundant food supply in the Santa Clara Valley and they often established settlements near local waterways. The project site is located approximately 450 feet east of Coyote Creek, which increases the likelihood that subsurface artifacts may be located on the project site.

An archeological literature review was completed at the Northwest Information Center at Sonoma State University to determine if any known resources are located on the project site. There are no recorded historic or prehistoric sites on the project site or anywhere within the McCarthy Ranch property. The nearest recorded prehistoric archaeological site is located east of I-880 near t Abbot Avenue. Various surveys of the project site and the entire McCarthy Ranch area have been completed over the last 20 years and no archaeological materials have been found on the ground surface or during subsequent development projects.

Historic Buildings

The first structures built in Milpitas were adobe houses located along the foothills east of the City and along both sides of Calaveras Road between Main Street and the foothills. During the mid- to late-1800's many of the structures built were wood frame farmhouses and service buildings such as blacksmiths, hotels, and general stores.

Milpitas changed little until 1953 when the Ford Motor Plant was built at the south end of the City. Within the next 20 years, most all of the older buildings in the City center were demolished but the two corridors along the eastern foothills and the western highway remained fairly intact.

Currently, there are 13 sites officially designated as Cultural Resources and six sites have been identified as prime candidates for preservation in the City of Milpitas. None of the designated sites

or candidate sites is located on or adjacent to the project site. The only buildings on-site are the existing commercial buildings which were constructed in 1994-1995 and are not considered historic.

4.5.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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"/>	1,2,8
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"/>	1,2,8
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"/>	1,2,8
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"/>	1,2,8

4.5.2.1 **Subsurface Resources**

Prehistoric and Historic Resources

While the project site is located near a local waterway and Milpitas was known to be occupied during the prehistoric and historic eras, previous studies and development on the project site and the project area has failed to generate reports of any archaeological finds. As a result, the archaeological review concluded that demolition of the existing buildings and construction of a hotel/retail building with underground parking will have no impact on historic or prehistoric subsurface resources. **(No Impact)**

In the unlikely event, however, that subsurface artifacts are uncovered during grading activities, the following measures will be implemented:

- In the event that prehistoric or historic resources are encountered during excavation and/or grading, all activity within a 50-foot radius of the find will be stopped, the Director of Planning and Neighborhood Services will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning and Neighborhood Services.
- In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of

Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. While excavation on-site will reach a maximum depth of 15 feet, it is improbable that paleontological resources will be discovered on-site due to the distance of the site from the Bay and because no paleontological resources have been discovered in this area of Milpitas. **(No Impact)**

4.5.2.2 Historic Buildings

There are no historic structures on or immediately adjacent to the project site. Therefore, implementation of the proposed project will have no impact on any designated historic structures. **(No Impact)**

4.5.3 Conclusion

The proposed project will have no impact on cultural resources. **(No Impact)**

4.6 GEOLOGY AND SOILS

4.6.1 Setting

The following discussion is based in part on a Preliminary Geotechnical Engineering Investigation by *Jensen-Van Lieden Associates, Inc.*, in December, 2011. The report is attached as Appendix E.

4.6.1.1 Geology and Soils

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin, bounded by the Santa Cruz Mountains to the southwest and west, the Diablo Mountain Range to the east, and San Francisco Bay to the north.

Based on soil borings taken on-site, soils on the project site are comprised of granular and clay soils. The soil layers were found to be generally uniform throughout the site though the depths of the individual layers vary. The near surface soils (upper two to three feet) consist of mixed sands and clays which are likely fill material. These soils overlay soft to stiff clays, silty clays, and clayey silts that extend to depths of 20 to 48 feet below the ground surface (bgs). Below this second layer is a layer of medium dense silty sand and then a very dense layer of sand and gravel.

There are no unique geologic features on or adjacent to the project site. Due to the flat topography of the project site, the potential for erosion or landslide on or adjacent to the site is low. Groundwater was encountered on the project site at approximately nine feet bgs.

4.6.1.2 Seismicity

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

The site is not located within a designated Alquist-Priolo Earthquake Fault Zone⁹ or in a Santa Clara County Fault Hazard Zone¹⁰ and no active faults have been mapped on-site. Therefore, the risk of fault rupture at the site is low. Faults in the region are, however, capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. The distance to active faults near the project site are shown in Table 3.

Fault	Distance from Site
Hayward	2.5 miles
Calaveras	6.2 miles
San Andreas	15.0 miles

⁹ California Department of Conservation Website. http://www.quake.ca.gov/gmaps/ap/ap_maps.htm Accessed October 12, 2012.

¹⁰ Santa Clara County Planning Department Website. <http://www.sccgov.org/portal/site/planning/agencychp?path=%2Fv7%2FPlanning%2C%20Office%20of%20%28DEP%29%2FMaps%20%26%20GIS%2FGeologic%20Hazards%20Zones%28Maps%20%26%20Data%29%2FFault%20Rupture%20Hazard%20Zones#Single> Accessed October 12, 2012.

4.6.1.3 Liquefaction and Lateral Spreading

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state during ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and depth to ground water. The proposed project site is located within a liquefaction hazard zone.¹¹

The geotechnical investigation found liquefaction hazards at the site to be negligible due to the depth to potential liquefiable layers. There is the potential for liquefaction in the silty sand, sand, and gravel layers located at depths of 28 to 48 feet bgs. Based on a liquefaction analysis prepared for the project site, it is conservatively estimated that during a major earthquake, the liquefiable layers could cause surface settlement from one to 3.5 inches. The clay layers above the liquefiable layers would dampen consolidation and differential settlement effects.

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 the steep bank of a stream channel. There are no stream channels on or directly adjacent to the site that would be subject to lateral spreading.

4.6.1.4 Groundwater

Groundwater in the area is encountered at relatively shallow depth. In November 2011, groundwater was found at depths ranging from nine to 14 feet below the ground surface.

4.6.2 Environmental Checklist and Discussion of Impacts

¹¹ Santa Clara County. *Liquefaction Hazard Zones*. [http://www.sccgov.org/sites/planning/Maps%20-%20GIS/Geologic%20Hazards%20Zones\(Maps%20-%20Data\)/Liquefaction%20Hazard%20Zones/Pages/County-Liquefaction-Hazard-Zones.aspx](http://www.sccgov.org/sites/planning/Maps%20-%20GIS/Geologic%20Hazards%20Zones(Maps%20-%20Data)/Liquefaction%20Hazard%20Zones/Pages/County-Liquefaction-Hazard-Zones.aspx) Accessed October 1, 2012.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
b. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
c. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
d. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
2. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
3. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
4. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,9
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"/>	1,2

4.6.2.1 Geological Impacts

Geology and Soils Impacts

The project site and surrounding areas are flat and there are no waterways in the immediate vicinity. The project would not, therefore, be exposed to landslide or erosion hazards related to slope. The project would be designed and constructed in accordance with standard engineering safety techniques and in conformance with a design-specific geotechnical report prepared for the site to reduce soil impacts to a less than significant level. **(Less Than Significant Impact)**

Seismicity Impacts

The project site has a moderate potential for liquefaction during large seismic events. The project shall be designed and constructed in accordance with the 2010 California Building Code which contains the regulations that govern the construction of structures in California. These regulations are meant to prevent damage to structures in the event of an earthquake. **(Less Than Significant Impact)**

Groundwater Impacts

The project includes construction of a below-grade parking structure. The structure would be one level and would require excavation to a depth of approximately 12-15 feet bgs in an area where groundwater is encountered at nine feet bgs. Due to the shallow groundwater, the proposed parking structure would likely be exposed to hydrostatic pressure and the possibility of water intrusion that could compromise the integrity of the structure. As noted above, the project shall be constructed in conformance with the building design measures identified in the site-specific geotechnical report. These measures could include subsurface drains and collector systems and/or water-proofing to address water intrusion issues. In addition, the retaining walls in the garage would be designed to resist soil and hydrostatic pressure. **(Less Than Significant Impact)**

4.6.2.2 Construction Impacts

The majority of the site is flat and developed and very little soil is currently exposed on the site. Ground disturbance would be required for demolition of the existing buildings and surface parking lot, grading, and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The City will require the project to comply with all applicable regulatory programs pertaining to construction related erosion. Because the project proposes to comply with all applicable regulations, implementation of the proposed project would have a less than significant construction related soil erosion impact. **(Less Than Significant Impact)**

4.6.3 Conclusion

With implementation of recommendations in the design-specific geotechnical report and conformance to the 2010 California Building Code, the project would not expose people or property to significant impacts associated with geologic or seismic conditions. **(Less Than Significant Impact)**

4.7 GREENHOUSE GAS EMISSIONS

The project site is currently developed with 267,606 square feet of commercial buildings and a large surface parking lot.

4.7.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,9
2. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,9

4.7.2 Conclusion

As proposed, the project would demolish 139,710 square feet of the existing commercial space and construct a 12-story, 250-room hotel with ground floor and second floor retail. The total net new retail space would be 292,186 square feet and the hotel would be 178,692 square feet. The net increase in commercial space on-site plus a new hotel could significantly increase daily traffic trips to and from the project site.

Based on the potential to increase greenhouse gas emissions due to an increase in daily traffic trips associated with the project site and increased energy usage on-site, the proposed project could result in a significant greenhouse gas emissions impact. The analysis of greenhouse gas emissions impacts is presented in the EIR. No further analysis will be provided in this Initial Study.

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based in part on a Phase I Environmental Site Assessment (ESA) prepared for the site by *Hoexter Consulting, Inc.* in January, 2012. A copy of this report is provided in Appendix F of this document.

4.8.1 Existing Setting

The 37.9-acre project site is located in an area of Milpitas that is primarily developed with industrial and commercial land uses. The site itself is developed with 13 commercial buildings and a large surface parking lot.

Based on available data for the project area, the direction of groundwater flow beneath the project site is northwest. Groundwater occurs at depths of approximately nine feet bgs.

4.8.1.1 Site History

A land use history of the site has been compiled based on aerial photographs, topographic maps, building records, City directories, and other site records. Based on a review of these sources, the project site was part of the Rincon de las Esteros land grant beginning in 1838. The property was passed to various land owners and was vacant and/or developed with scattered residences, roads, and agriculture until construction of the existing commercial center began in 1994. According to available records, the site was formally cultivated for various agricultural uses continuously from the 19th century to 1994.

The surrounding area was also utilized as agricultural land. The approximately 65 acre property west of the project site (on the west side of McCarthy Boulevard) is known to have been used for agricultural purposes for more than 100 years. Agricultural operations ceased when the southern half of the property was developed in 1986.

4.8.1.1 On-Site Sources of Contamination

Agricultural Use

As noted above, the project site and surrounding area was historically used for agricultural purposes. It is common to find arsenic, lead, and dichlorodiphenyltrichloroethane (DDT) residue in the soil in Santa Clara County from historic farming operations. It is reasonable to assume that these types of chemicals were used on the project site. Residual agricultural chemicals are likely present in the native soils on the project site.

While there is no specific data that quantifies the level of agricultural chemical contamination on-site, in the year 2000 the property to the west has been reported to have a maximum DDT concentration of 0.6 mg/kg. This chemical, along with all other identified organochlorine pesticides were found to be below relevant Commercial/Industrial Preliminary Remediation Goals (PRGs).

The agricultural land use and related agricultural activities at the adjacent western property appear to have been similar to those that took place on the project site. The levels of contamination from

agricultural land uses on the project site are, therefore, likely similar to the levels present on the adjacent western property.

Asbestos and Lead Based Paint

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

In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. The existing buildings on-site were constructed prior to 1980. Because the existing buildings on the project site were constructed more than 15 years after lead based paints and friable asbestos products were banned, it is unlikely that ACMs and/or lead based paints are present in the structures.

Other On-Site Hazards

As part of the Phase I ESA, a search of Federal, State, tribal, and local regulatory databases was completed to identify properties with documented environmental releases and/or those that use, store, or dispose of regulated chemicals. The project site was not identified in any of the databases reviewed.

A site reconnaissance was completed in December 2011 to identify any environmental concerns present at the site. No indications of spills or hazardous materials conditions were noted on the site, with the exception of oil staining on the concrete pad supporting a transformer located adjacent to the parking lot northeast of Unit 181. The stain was also noted in a previous Phase I ESA completed in 2006 by URS Corporation. The stain did not appear to be fresh, although it was not possible to determine whether any leaking had occurred since the 2006 report was prepared. Six additional electrical transformers were observed on the project site along with refuse disposal bins, and cardboard compactors, however, there was no indication of fluid leakage or release from these sources.

An abandoned grease trap was discovered during the site reconnaissance, adjacent to Unit 217 which is currently occupied by David's Bridal. The grease trap was associated with a former children's entertainment facility that occupied the building from 1995 until 2000 when the facility went out of business. The bridal retail shop moved into the building in 2001. At the time of the site reconnaissance, the trap was filled with approximately 300 gallons of fluid/sludge. Samples of the fluid from the grease trap detected low levels of petroleum hydrocarbons, volatile organic compounds, and metals which is consistent with contaminants that would be expected to occur in surface stormwater runoff from a parking lot. It is likely that the fluid was stormwater runoff that

had entered the abandoned grease trap through unsealed openings from the surrounding parking lot. There are no records to indicate the trap has been used since 2000.

4.8.1.2 Off-Site Sources of Contamination

A search of regulatory databases was completed to identify properties with documented environmental releases and/or those that use, store, or dispose of regulated chemicals. The database search found 19 sites listed in the project area including a former and existing underground storage tank (UST) associated with a Pacific Gas & Electric (PG&E) Gas Terminal and a Walmart, respectively.

The PG&E Gas Terminal stores small quantities of various hazardous materials including an above ground fuel tank most likely used for a backup generator. The site has no current reported violations. A release of gasoline occurred from a former UST, which is located 400 feet up gradient from the project site. The release was investigated and although limited residual soil and ground water contamination remain, the site was granted case closure by the California Regional Water Quality Control Board (RWQCB) in 2004. This closed case is unlikely to impact the project site.

The Walmart site, located immediately north and downgradient of the project site, has a 1,000 gallon waste oil UST and it is a small quantity hazardous waste generator. The site has no current reported violations. The UST is located at the far northern end of the Walmart property. Based on the distance and regional down-gradient location, the Walmart UST would be unlikely to impact the project site in the event of a release.

Similar to the two sites discussed above, other off-site facilities in the project area would not be likely to significantly impact groundwater beneath the project site based on one or more of the following: 1) the listed site has received case closure by the appropriate regulatory agency; 2) the listed site is located at too great a distance to represent a significant environmental condition, and/or 3) the listed site is either cross-gradient or down-gradient of the project site with respect to the regional groundwater flow direction.

4.8.1.3 Off-Site Hazards

The project site is located approximately 3.5 miles northeast of the Norman Y. Mineta San José International Airport and is not located within an Airport Influence Area (AIA) or airport safety zone.

4.8.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,11

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,11,12
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"/>	1,2,11
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, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,11
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, will 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"/>	1,2
6. For a project within the vicinity of a private airstrip, will 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"/>	1,2
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"/>	1,2
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"/>	1,2

4.8.2.1 On-Site Hazardous Materials Impacts

A discussed in Section 4.8.1.1, *On-Site Sources of Contamination*, there are no regulatory agency records or evidence of hazardous materials usage on the project site since it was developed approximately 18 years ago other than typical small quantities of paints and cleaning supplies.

The abandoned grease trap on-site had low levels of contaminants from stormwater runoff and was drained after testing. Based on the use of the adjacent building as a children's entertainment facility and subsequently a retail bridal shop, it is unlikely that the abandoned grease trap was used for any

purposes other than as a grease trap. As a result, it is reasonable to assume that there has been no release of hazardous materials from the trap to the adjacent soil and groundwater.

For these reasons, the project will not result in the exposure of construction workers or future site users to significant levels of hazardous materials based on business operations. **(Less Than Significant Impact)**

Agricultural Land Uses

The project site was used as agricultural land until approximately 1994 when the site was developed with the existing buildings. Because of the past agricultural uses on-site and documented contamination of nearby properties, it is reasonable to assume that pesticides and other agricultural chemicals were used as part of the normal agricultural operations. It is common to find arsenic, lead, and dichlorodiphenyltrichloroethane (DDT) residue in the soil in Santa Clara County from historic farming operations.

Development of the proposed project will require excavation and trenching which could result in impacts to construction workers from exposure to soil contamination related to agricultural operations. Once the project is complete, most of the exposed soil will be capped with the buildings and surface parking lot. A small portion of the perimeter of the site will be landscaped, resulting in some direct soil exposure for future maintenance workers of the site.

Impact HAZ-1: Implementation of the proposed project could expose construction workers and future on-site maintenance workers to contaminated soil. **(Significant Impact)**

Mitigation and Avoidance Measures

The project proposes to implement the following mitigation measures during site redevelopment:

MM HAZ-1.1: After demolition but prior to the issuance of grading permits, shallow soil samples shall be taken to determine if contaminated soil from previous agricultural land uses is located on-site with concentrations above established construction/trench worker thresholds. The soil sampling plan must be reviewed and approved by the Milpitas Fire Chief prior to initiation of work.

MM HAZ-1.2: Once the soil sampling analysis is complete, a report of the findings will be provided to the Milpitas Fire Chief, Director of Planning and Neighborhood Services, and other applicable City staff for review.

MM HAZ-1.3: If contaminated soils are found in concentrations above established thresholds, a Site Management Plan (SMP) will be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed

from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

A SMP will be prepared to establish management practices for handling impacted groundwater and/or soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the California Regional Water Quality Control Board, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; soil stockpiling protocols; and protocols to manage ground water that may be encountered during trenching and/or subsurface excavation activities. Prior to issuance of grading permits, a copy of the SMP must be approved by the SCCEHD, the City's Director of Planning and Neighborhood Services, and the Milpitas Fire Chief.

Dewatering During Construction

The project includes one level of below-grade parking in an area where the depth to groundwater is approximately nine feet bgs. Groundwater will most likely be encountered during excavation activities on-site which would need to be removed from excavated areas and disposed of.

Dewatering can draw groundwater onto the site from off-site locations and groundwater that collects in excavated areas can include sediment from surrounding soils. Based upon the database review, groundwater in the area does not contain substantial concentrations of contaminants. Furthermore, agricultural chemicals typically do not penetrate beyond the uppermost soil layer, so it is highly unlikely that agricultural chemicals have leached into the shallow groundwater. Dewatering during construction will be required to conform to discharge requirements of the Regional Water Quality Control Board and is not anticipated to create a significant hazard to the public or the environment. **(Less Than Significant Impact)**

Future Operations

Operation of the proposed project will likely include the use and storage on-site of cleaning supplies and maintenance chemicals in small quantities similar to the operations of the existing buildings and nearby businesses. No other hazardous materials will be used or stored on-site. No generators are proposed for the site. The small quantities of cleaning supplies and maintenance chemicals that will be used on-site do not pose a risk to on-site workers or adjacent land uses. **(Less Than Significant Impact)**

4.8.2.2 Off-Site Hazards

Soil and Groundwater Contamination

Off-site soil and groundwater contamination does not pose a risk to the project site because of the sources distance from the project site, current “closed” regulatory status, and/or the direction of groundwater flow from the contamination site. **(No Impact)**

Airport Operations

The project site is not located in proximity to any public airport or private airstrip and is not, therefore, located within an Airport Influence Area (AIA) which is a composite of the areas surrounding an airport that are affected by noise, height, and safety considerations. Construction of the proposed 12-story building would not result in a safety hazard related to aircraft flyovers. **(No Impact)**

Other Hazards

The project is in a highly developed urban area and it is not adjacent to any wildland areas that would be susceptible to fire. The project will not interfere with any adopted emergency response plan or emergency evacuation plan. **(Less Than Significant Impact)**

4.8.3 Conclusion

With implementation of the proposed mitigation, the project would not result in significant impacts related to hazardous materials contamination. **(Less than Significant Impact with Mitigation)**

The project will have a less than significant impact related to use/storage of hazardous materials on-site, airport operations, wildfires, or emergency plans. **(Less Than Significant Impact)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 Flooding

The project site is not located within a 100-year flood hazard area. In the vicinity of the project, Coyote Creek is contained within an engineered flood control channel. According to the Federal Emergency Management Agency (FEMA), the project site is located in Zone X which is an area with 0.2 percent annual chance of flood; areas with one percent chance of annual flood with average depths of less than one foot or with drainage areas less than one square mile; and areas protected by levees from one percent annual flood.¹²

4.9.1.2 Dam Failure

Based on the Association of Bay Area Governments (ABAG) dam failure inundation hazard maps, large portions of the Santa Clara Valley are located in the Lexington Reservoir dam failure inundation hazard zone. The project site is, however, outside the inundation hazard zone.¹³

4.9.1.3 Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche. There are no bodies of water near the project site that will affect the site in the event of a tsunami.¹⁴ The project area is flat and there are no mountains near the site that will affect the site in the event of a mudflow.

4.9.1.4 Projected Sea-Level Rise

One effect of global climate change is sea level rise. Various studies predict that sea level will rise by 12-18 inches by 2050, as compared to 2000 levels, as a result of global climate change. Sea level rise is a concern given the proximity of Milpitas to San Francisco Bay and relatively low elevation at the project site (approximately 15 feet above current mean sea level. The roadway adjacent to the project site (McCarthy Boulevard) may be affected by a projected sea level rise of up to 55 inches by the end of the century (i.e., by 2100)¹⁵, although other estimates indicate that a sea level rise as low as 39 inches could affect the site by this time.¹⁶

¹² Federal Emergency Management Agency. May 18, 2009.

<<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>> Accessed February 15, 2013.

¹³ Association of Bay Area Governments. *Dam Failure Inundation Hazard Map for NW San José/Milpitas/Santa Clara*. 1995. <<http://www.abag.ca.gov/cgi-bin/pickdamx.pl>> Accessed February 19, 2013.

¹⁴ Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region*. <<http://quake.abag.ca.gov/tsunamis>>. Accessed February 19, 2013.

¹⁵ San Francisco Bay Conservation and Development Commission. *Shoreline Areas Vulnerable to Sea Level Rise: South Bay*. Map. 2008 http://www.bcdc.ca.gov/planning/climate_change/climate_change.shtml Accessed March 26, 2013.

¹⁶ U.S. Geological Survey. *Visualizing California Climate Change Impacts – Sea Level*. Map. <http://www.climatechange.ca.gov/visualization/sealevel.html> Accessed March 26, 2013.

The increase in global mean sea level may have a range of impacts to developed areas of Milpitas and in tidally influenced reaches of streams and creeks. For instance, discharge pipes, both for storm and treated wastewaters, will operate differently under higher average tide cycles. Streams, creeks and rivers that flow to the Bay will also have higher water surface elevations for their respective downstream conditions, which may increase water levels throughout a system during extreme events. Rising sea levels may also affect the protection level for bay and riverine levee systems (such as Coyote Creek).

In addition to sea level rise, global warming may affect other flood related factors such as storm surge, wave height and run-up, and rainfall intensity. Generally more intense but less frequent precipitation is predicted, with storm patterns shifting to earlier in the fall and winter months. More intense storms may cause increased storm surge and wave heights in the Bay, although how these conditions would impact this area of Milpitas is unknown since the relatively shallow marshes of the South Bay may dampen this potential impact.

4.9.1.5 Storm Drainage System

The City of Milpitas owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Coyote Creek. Coyote Creek flows north, carrying flows from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

Currently, 84 percent of the project site is covered with impervious surfaces. There is an existing storm drain line in McCarthy Boulevard that serves the project site. The line varies from 24 to 48 inches in diameter.

4.9.1.5 Groundwater

The geotechnical report prepared for the project site determined that groundwater beneath the project site is at a depth of approximately nine feet bgs.

4.9.1.6 Water Quality

The water quality of Coyote Creek is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from the Environmental Protection Agency (EPA)¹⁷, Coyote Creek is currently listed on the California 303(d) list¹⁸ and the Total Maximum Daily Load (TMDL) high priority schedule.¹⁹ The

¹⁷ U.S. Environmental Protection Agency. *California 303(d) Listed Waters*. http://ofmpub.epa.gov/tmdl_waters10/attains_waterbody.control?p_list_id=CAR2053002119990218112824&p_stat_e=CA&p_cycle=2010 Accessed February 19, 2013.

¹⁸ The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.

¹⁹ A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

listing is for Diazinon, for which a TDML has been completed, and for trash, for which there is no TDML.

Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the Milpitas area is the San Francisco Regional Water Quality Control Board (RWQCB).

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of Milpitas. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all of the post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities. The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) assists co-permittees, such as the City of Milpitas, implement the provisions of the Municipal NPDES Permit.

Hydromodification

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

Based on the SCVUPPP Watershed Map for the City of Milpitas, the project site is within a subwatershed that drains into a hardened channel. As a result, the project is not required to comply with the NPDES hydromodification requirements.²⁰

4.9.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
2. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will 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 will drop to a level which will 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"/>	1,2
3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
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 will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
5. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
6. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
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"/>	1,2,13

²⁰ Santa Clara Valley Urban Runoff Pollution Prevention Program web site. http://www.scvurppp-w2k.com/hmp_maps.htm Accessed February 19, 2013

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
8. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,13
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,14
10. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,14

4.9.2.1 Flooding and Storm Drainage Impacts

Implementation of the project would result in the disturbance of approximately 9.8 acres of impervious surfaces (building foundations and other pavement) and 1.9 acres of impervious surfaces on the project site.

With implementation of the proposed project the amount of impermeable surface area on the project site would increase by approximately six percent. The existing and proposed pervious and impervious surfaces on the project site (provided by the project architect) are shown in Table 4 below:

Site Surface	Existing/Pre-Construction (sf)	%	Project/Post-Construction (sf)	%	Difference (sf)	%
Impervious						
Building Footprint	144,380	28	180,325	35	+35,945	+7
Parking/Driveways	281,675	55	277,280	54	-4,395	-1
<i>Subtotal</i>	<i>426,055</i>	<i>84</i>	<i>457,605</i>	<i>90</i>	<i>31,550</i>	<i>+6</i>
Pervious						
Landscaping	83,600	16	52,050	10	31,550	-6
TOTAL	509,655	100	509,655	100		

Under existing conditions, the storm drainage system has sufficient capacity to convey runoff from the site. While there will be a net increase in impervious surface area on-site, the total volume of stormwater runoff will decrease due to the requirements of the NPDES Municipal Regional Permit. The project will be required to retain a percentage of stormwater on-site for re-use, and/or evaporation, and/or percolation. The remaining stormwater will be treated prior to entering the storm drainage system and can be metered, if determined necessary by the Public Works Department, to ensure that the capacity of the existing system is not exceeded. Therefore, implementation of the proposed project will have a less than significant impact on the storm drainage system. **(Less Than Significant Impact)**

The site is not located within a 100-year flood hazard zone. Implementation of the proposed project will not result in people or structures being exposed to significant flood risks. **(No Impact)**

4.9.2.2 Groundwater

The project site is currently 84 percent paved and does not contribute to recharging of the groundwater aquifers. The depth to groundwater at the project site is approximately nine feet bgs. The proposed underground parking structure would intercept the shallow groundwater aquifer but the project would not impede groundwater recharge or lessen groundwater supplies. **(Less Than Significant Impact)**

4.9.2.3 Water Quality

Operational Impacts

Implementation of the proposed project would result in an overall increase in impermeable surfaces over existing conditions. After redevelopment, the project site will contribute the same types of stormwater runoff pollutants as the current site conditions and as the surrounding development. Runoff from streets and parking areas often carries grease, oil, and trace amounts of heavy metals into natural drainages. Runoff from landscaping can carry pesticides, herbicides, and fertilizers. Although the amounts of these pollutants ultimately discharged into the waterways are unknown, over time they could accumulate and be substantial.

The existing and proposed square footages of pervious and impervious surfaces are shown on Table 4, above. The area of the project site to be modified is approximately 509,655 square feet²¹, of which approximately 84 percent is currently comprised of impervious surfaces. The proposed project will increase impervious surfaces on-site by approximately 31,550 square feet. Most of the impervious surfaces will be buildings and surface parking. The increase in cars parked on-site each day will increase the amount of oils, grease, metals, and debris on-site which will increase the potential amount of pollution flowing into the storm drainage system.

As the proposed project will add or replace more than 10,000 square feet of impervious surfaces, it must conform to the requirements of the Municipal Regional Stormwater NPDES permit. Conformance measures are illustrated in the Conceptual Stormwater Control Plan on-file with the City of Milpitas and will be finalized in the final Stormwater Control Plan at the Development Permit stage of this project. Plans will be certified by engineers to ensure incorporation of appropriate and effective source control measures to meet Low Impact Development (LID) requirements to prevent discharge of pollutants, reduce impervious surfaces, retain a percentage of runoff on-site for percolation, and treatment control measures to remove pollutants from runoff entering the storm drainage system. In order to meet the City's requirements and the NPDES requirements, the project proposes that pathways, driveways, surface parking lots and rooftop runoff will drain into bio-retention areas located at the southern end of the site. Rooftops will drain into flow-through planters located along the western edge of the building.

²¹ One acre equals 43,560 square feet.

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

The following measures, based on the RWQCB Best Management Practices (BMPs) and the City requirements, are included in the proposed project to ensure compliance with NPDES permit requirements for both construction and operations to reduce post-construction water quality impacts.

- When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site.
- All post-construction Treatment Control Measures (TCMs) will be installed, operated, and maintained by qualified personnel. On-site inlets will be cleaned out at a minimum of once per year, prior to the wet season.
- The property owner/site manager will keep a maintenance and inspection schedule and record to ensure the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times.

With implementation of the project's proposed Stormwater Control Plan, the project will not violate any adopted water quality standards or waste discharge requirements. Runoff will be routed directly from the on-site treatment facilities to the storm drainage system and will not flow off-site. Installation and maintenance of the proposed stormwater treatment systems will result in a less than significant impact on water quality. **(Less Than Significant Impact)**

Construction Impacts

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

As a condition of approval, the project will be required to implement the following best management practices of the RWQCB during all phases of construction, consistent with the General Permit for Construction.

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- A Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB mitigation.
- The project proponent will submit a copy of the draft SWPPP to the City of Milpitas for review and approval prior to start of construction on the project site. The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions.
- When construction is complete, a NOT for the General Permit for Construction will be filed with the RWQCB and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

4.9.4 Conclusion

The project would not be subject to flooding or inundation by seiche, tsunami, or mudflow. Conformance with the General Permit for Construction and Municipal Regional Permit will result in a less than significant impact on stormwater quality. The project will not deplete the groundwater supply, significantly increase stormwater runoff, or expose people or structures to flood hazards.
(Less Than Significant Impact)

4.10 LAND USE

4.10.1 Setting

The project site is currently developed with 267,606 square feet of commercial buildings and a large surface parking lot.

4.10.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
2. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2
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"/>	1,2

4.10.3 Conclusion

As proposed, the project would demolish 139,710 square feet of the existing commercial space and construct a 12-story, 250 room hotel with ground floor and second floor retail. The total net new retail space would be 292,186 square feet and the hotel would be 178,692 square feet. The net increase in commercial space on-site plus a new hotel would exceed the allowable FAR on the project site.

Based on the proposed increase in FAR and the overall height of the hotel relative to adjacent land uses, the proposed project could result in a significant land use impact. The analysis of land use impacts is presented in the EIR. No further analysis will be provided in this Initial Study.

4.11 MINERAL RESOURCES

4.11.1 Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources in the low-lying areas. All known mineral resources are located in the Milpitas area in the foothills east of Highway 680.²²

4.11.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Result in the loss of availability of a known mineral resource that will 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"/>	1,2
2. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

4.11.2.1 Impacts to Mineral Resources

The proposed project is within a developed urban area and it does not contain any known or designated mineral resources. Implementation of the project will not result in the loss of availability of any known resources. **(No Impact)**

4.11.3 Conclusion

The project will not result in impacts to known mineral resources. **(No Impact)**

²² City of Milpitas General Plan. Figure 4-20.

4.12 NOISE

The following is based upon a Noise Assessment prepared by *Charles M Salter Associates, Inc.* in October, 2012. A copy of this report is provided in Appendix G of this document.

4.12.1 Existing Setting

4.12.1.1 Background Information

Acceptable levels of noise vary from land use to land use. In any one location, the noise level will vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and Federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

There are several methods of characterizing sound. The most common in California is the *A-weighted sound level* or *dba*.²³ This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq} . The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01} , L_{10} , L_{50} , and L_{90} , are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period.

Sound level meters can accurately measure environmental noise levels to within about plus or minus one *dba*. Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The *Day/Night Average Sound Level*, *Ldn*, is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 *dB* to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.

The most widespread and continual source of noise in Milpitas is transportation and transportation-related facilities. Freeways, local arterials, railroads, and Light Rail Transit are all major contributors to noise in Milpitas.

4.12.1.2 Regulatory Background – Noise

²³ The sound pressure level in decibels as measured on a sound level meter using the A-weighting filter network. All sound levels in this discussion are A-weighted, unless otherwise stated.

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

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

California Building Code. Title 24, Part 2, Chapter 1207 of the 2010 California Building Code limits indoor noise from outdoor sources to Ldn 45 dBA in the guest rooms of hotels. Projects exposed to an outdoor Ldn greater than 60 dBA require an acoustical analysis at the design phase that demonstrates that the proposed design will limit noise to meet the indoor standard. The California Green Building Standards Code also has performance based 1-hour Leq standards for non-residential projects.

City of Milpitas General Plan. Based on the City’s General Plan Noise Element, Table 5 shows the noise levels considered compatible with the specific land uses proposed by the project. Commercial land uses are considered compatible with Ldn noise levels of up to 70 dBA and acceptable with design and insulation techniques in areas with Ldn noise levels up to 78 dBA. Hotels are considered compatible with Ldn noise levels of up to 65 dBA and acceptable with design and insulation techniques in areas with Ldn noise levels up to 70 dBA.

TABLE 5 Community Noise Exposure (Ldn or CNEL, dB)									
Land Use Category	50	55	60	65	70	75	80	85	
Transient Lodging – Motels, Hotels	Normally Acceptable				Conditionally Acceptable		Normally Unacceptable		
	Normally Acceptable				Conditionally Acceptable		Clearly Unacceptable		
Office Buildings, Business Commercial and Professional	Normally Acceptable					Conditionally Acceptable		Normally Unacceptable	
	Normally Acceptable					Conditionally Acceptable		Clearly Unacceptable	
	Normally Acceptable								
	Conditionally Acceptable								
	Normally Unacceptable								
	Clearly Unacceptable								

Source: City of Milpitas General Plan, Noise Element

Policy 6-1-5 states that all new residential development (single-family and multi-family) and lodging facilities must have interior noise levels of 45 dB Ldn or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB Ldn interior noise levels.

City of Milpitas Municipal Code. The Milpitas Municipal Code does not specify any noise thresholds for hotel or commercial land uses.

4.12.1.3 Existing Noise Environment

The project site is located at the northwest corner of the McCarthy Boulevard/Ranch Drive intersection, just north of SR 237 and west of I-880 in the City of Milpitas. Noise in the project area is generated primarily from vehicular traffic along McCarthy Boulevard as well as I-880 and SR 237.

To quantify the existing noise environment on the project site, two long-term (LT) and two short-term (ST) noise measurements were taken around the project site. Table 6 gives a summary of the

Measurement	Location	Ldn (in dBA)
LT-1	Within the central parking lot near the northeast corner of Building C	64 dBA
LT-2	Immediately south of Building A	65 dBA
ST-1	Adjacent to the southeast corner of Building A	65 dBA
ST-2	Approximately 90 feet east of the McCarthy Boulevard centerline, west of Building A	68 dBA

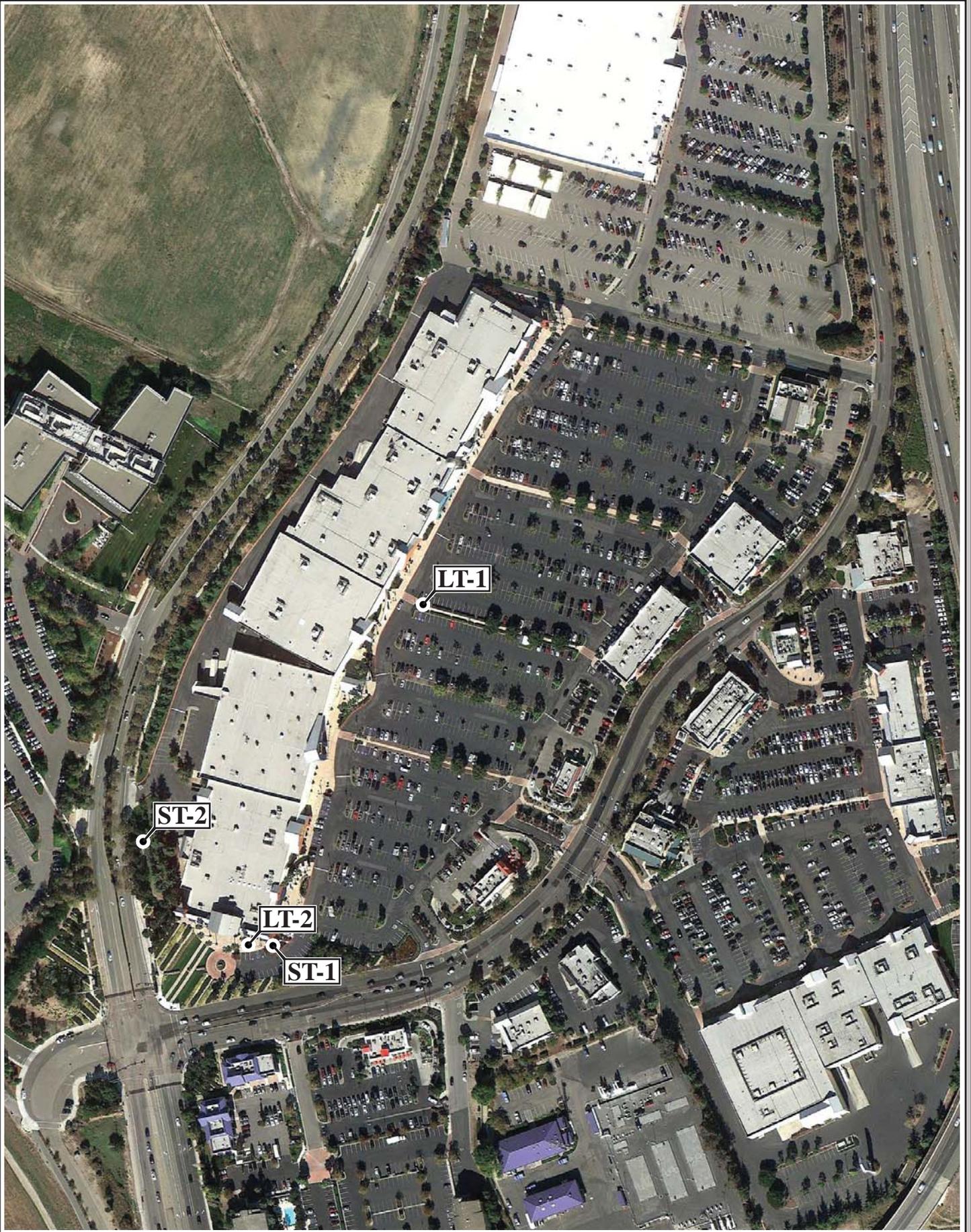
acoustical locations and measurements. Figure A5 shows the locations of the measurements.

4.12.1.4 Sensitive Receptors

The nearest noise sensitive receptors to the project site would be the two hotels located at the far southern edge of the McCarthy Ranch Marketplace retail center adjacent to SR 237. The hotels are approximately 300 feet south of the southern edge of the project site. There is also a residential neighborhood approximately 520 feet east of the nearest corner of the project site on the east side of I-880 and three hotels more than 1,500 feet south of the project site on the south side of SR 237. There are no other noise sensitive land uses adjacent or within close proximity to the site.

4.12.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,15
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"/>	1,2,15



NOISE MEASUREMENT LOCATIONS

FIGURE A5

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,15
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,15
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, will 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"/>	1,2,15
6. For a project within the vicinity of a private airstrip, will 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"/>	1,2,15

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA L_{dn} or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA L_{dn} or greater is considered significant.

4.11.2.1 Noise Impacts to the Project

Vehicular traffic noise along McCarthy Boulevard and Ranch Drive currently generates noise levels less than the City's acceptable noise level standards for the existing commercial development. Traffic volumes are, however, expected to increase in the project area in the future due to both the project and other planned growth.

Based on estimated future traffic volumes, peak hour traffic volumes on Ranch Drive are projected to increase by up to 46 percent. This increase in traffic equates to an approximately two dBA increase in ambient noise levels. On McCarthy Boulevard, traffic volumes are projected to increase by less than one percent which would not result in a measurable increase in noise.

As noted above, existing noise levels in the project area fall within the "normally acceptable" range for commercial development. The existing noise levels are, however, within the "conditionally acceptable" range for hotel land uses. Estimated future noise levels would range from 66 dBA L_{dn} near Building C to 70 dBA L_{dn} at the southern end of the project site where the hotel is proposed.

As proposed, the hotel would have an exterior dining area on the second level. No other outdoor use areas (such as balconies) are proposed. The dining area would be exposed to future noise levels of 65 to 70 dBA Ldn which is at the high end of the conditionally acceptable range established in the General Plan. The project proposes solid noise barriers at a minimum height of 42 inches to shield the dining area from traffic noise on Ranch Drive and McCarthy Boulevard. Based on the noise analysis, the barriers would reduce ambient noise levels at the outdoor dining area to 65 dBA CNL or less which is consistent with the City's noise standards.

Interior noise levels within the hotel guest rooms would be required to be maintained at or below 45 dBA. Exterior noise levels above 60 dBA could preclude achieving interior noise levels of 45 dBA or less. Interior noise levels would vary depending on the design of the buildings, construction materials, and construction methods. Standard construction provides approximately 15 dBA of noise reduction with windows partially open and 20 dBA of noise reduction with windows closed. Where exterior noise levels are in excess of 65 dBA, standard construction techniques alone will not reduce interior noise to an acceptable level.

Impact NOI-1: Implementation of the proposed project could expose future hotel guests to interior noise levels in excess of acceptable City and State standards.
(Significant Impact)

Mitigation Measures: The following measures are included in the project to reduce significant long-term noise impacts:

MM NOI 1-1: A qualified acoustical consultant will review final site plans, building elevations, and floor plans prior to construction to calculate expected interior noise levels as required by City policies and state noise regulations. Project-specific acoustical analyses are required by the California Building Code to confirm that the design results in interior noise levels of 45 dBA or lower. The specific determination of what noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) are necessary will be conducted on a unit by unit basis. Results of the analysis, including the description of the necessary noise control treatment, will be submitted to the City along with the building plans and approved prior to issuance of any building permits.

MM NOI 1-2: All guest rooms will be equipped with forced-air mechanical ventilation so that windows can be kept closed at the discretion of the guests.

MM NOI 1-3: All noise insulation treatments identified during review of the final site plans will be incorporated into the proposed project.

4.11.2.2 Noise Impacts from the Project

Project Generated Traffic Noise Impacts

Based upon the traffic study prepared by *Fehr & Peers* (see Section 4.3 of the EIR, *Transportation and Circulation*), traffic noise levels would increase as a result of the project. Typically, in high noise environments, if the project would cause ambient noise levels to increase by more than three dBA at

noise-sensitive receptors, the impact is considered significant. For a perceptible increase (three dBA) in ambient noise level, traffic trips need to double in the project area.

Based on traffic projections presented in the transportation impact analysis, traffic generated by the proposed project would result in a noise level increase of approximately two dBA in the project area. Since the proposed project will not cause an increase in noise levels in the project area of three decibels or more, it will have a less than significant long-term noise impact on the nearby hotel land uses. **(Less Than Significant Impact)**

Construction Noise Impacts

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during demolition and the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 dB measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about six dB per doubling of distance between the source and receptor.

The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible at the two nearby hotels. While construction activities may interfere with hotel operations (i.e., guests may not want to stay near a construction site), any temporary loss of business due to perceived nuisance issues would not be considered an impact under CEQA. Nevertheless, the project will be required as a Condition of Approval to implement the following noise control measures:

- Construction and demolition activities shall be limited to the period between 7:00 AM and 6:00 PM Monday through Friday and 9:00 AM to 6:00 PM on Saturdays. No construction or demolition activities are permitted on Sundays or holidays.
- Construction crews will be required to use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment.
- The applicant shall designate a disturbance coordinator and post the name and phone number of this person at easy reference points for the surrounding land uses. The disturbance coordinator shall respond to and address all complaints about noise.

4.11.3 Conclusion

Implementation of the proposed mitigation measures will reduce noise impacts to future hotel guests on the project site to a less than significant level. **(Less than Significant Impact with Mitigation)**

The proposed project will have a less than significant impact related to construction noise. **(Less than Significant Impact)**

4.13 POPULATION AND HOUSING

4.13.1 Setting

According to California Department of Finance 2010 census data, the population for the City of Milpitas in 2010 was 66,790, with 3.34 persons per household.²⁴ The Association of Bay Area Governments (ABAG) projects the population for Milpitas to be 98,100 in 2030.²⁵ It is estimated that in 2010 the City had approximately 49,900 jobs and an active labor force of approximately 31,480 people.²⁶

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

Milpitas currently has a higher number of jobs than employed residents (approximately 1.59 jobs per employed resident) and is projected to continue to have a higher number of jobs than employed residents with full build out under the General Plan.²⁷

4.13.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
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"/>	1,2
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"/>	1,2

²⁴ State of California Department of Finances. *Census 2010*. 2010.

<http://www.dof.ca.gov/research/demographic/state_census_data_center/census_2010> Accessed January 23, 2013.

²⁵ Association of Bay Area Governments. *Projections 2009: Building Momentum*.

²⁶ Association of Bay Area Governments. *Projections 2007: Forecasts for the San Francisco Bay Area to the Year 2035*.

²⁷ City of Milpitas. *General Plan: Land Use Element*.

4.13.2.1 Impacts from the Project

The project will develop land already designated and utilized as job lands. The project site has not been used for residential purposes in the past; therefore, the proposed project will not displace existing housing or people. Redevelopment of this site and intensification of commercial uses result in a net increase in jobs citywide. There is currently a shortage of available housing within the City of Milpitas compared to the number of jobs within the City. The increase in jobs will incrementally increase the overall jobs/housing imbalance within the City but represents a minimal percentage increase and will not be a substantial change.

Implementation of the proposed project will have a less than significant impact on population and housing in Milpitas. **(Less Than Significant Impact)**

4.13.3 Conclusion

The project will not increase the resident population in the project area or in the City. The project would not displace housing or people. The proposed project would not result in significant impacts to population or housing. **(Less Than Significant Impact)**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 Fire Protection Services

Fire protection services on the project site are currently provided and would continue to be provided by the City of Milpitas Fire Department (MFD). The MFD has four fire stations and an administration facility. The closest fire station to the site is Station No. 4, located at 775 Barber Lane, approximately 0.82 miles south of the project site.

4.14.1.2 Police Protection Services

Police protection services on the project site are currently provided and would continue to be provided by the City of Milpitas Police Department (MPD). Services are provided from one central station located at 1275 North Milpitas Boulevard. The department employs 95 sworn officers.

4.14.1.3 Schools

The proposed project is the redevelopment of commercial property, currently occupied by retail buildings and does not propose any residential uses. No new students would be directly generated by the implementation of the proposed project. Therefore, the proposed project will have no impact on schools in the City of Milpitas.

4.14.1.4 Libraries

The Santa Clara County Library System consists of eight libraries and two bookmobiles. The Santa Clara County libraries are governed by the Joint Powers Authority, which is comprised of one City Council member from each of the eight member City jurisdictions and two members of the Santa Clara County Board of Supervisors. The project site is served by the Milpitas Library, located at 160 North Main Street.

The proposed project is the redevelopment of retail center and does not include any residential uses. Therefore, the proposed project will have no impact on library facilities in the City of Milpitas.

4.14.1.5 Parks

The City of Milpitas owns more than 200 acres of park and recreation facilities²⁸. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland. The nearest park to the project site is Starlite Park, located at the intersection of Rudyard Drive and North Abbott Avenue, approximately 1.3 miles northeast of the project site. Starlight Park is a 3.44-acre park with picnic tables and barbecues, horseshoe pits, a turf area, a volleyball court, and a play structure. In addition, the nearby Coyote Creek levee, located 0.10 miles west of the project site, has a walking/bicycle trail.

²⁸ City of Milpitas General Plan. http://www.ci.milpitas.ca.gov/government/planning/plan_general.asp Accessed February 19, 2013

The proposed project is the redevelopment of a retail center and does not include any residential uses. A net increase in the daily employee population in the City, as well as temporary hotel guests, would not result in a substantial increase in usage of local recreational facilities. Although future employees and hotel guest might use City parks or trails for running and similar outdoor exercise, they are unlikely to place a major physical burden on existing facilities. Therefore, the proposed project will not have any impact on park facilities in the City of Milpitas.

4.14.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project 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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

4.14.2.1 Impacts to Public Services

Fire Protection Services

The existing conditions on the site create a demand for fire services because the site is currently occupied. The proposed project would result in a net increase in the total square footage of retail and hotel building space on the site, resulting in an increase in demand for fire protection services. The proposed project will be built to applicable Fire Code standards in use when construction permits are issued, including sprinklers and smoke detectors, and will include features that would reduce potential fire hazards. Access to the site for emergency vehicles will be provided from project driveways on Ranch Drive and McCarthy Boulevard which will be built to City specifications.

Although the proposed project would incrementally increase demand for fire response and related emergency services, it will not require the development of new fire service facilities, and therefore, will not result in a significant physical impact on the environment. **(Less Than Significant Impact)**

Police Protection Service

The proposed retail/hotel development would increase the total population of Milpitas during standard business hours and afterhours (due to the hotel), but would not permanently increase the resident population because no housing is proposed as part of the project. The project would be constructed in conformance with current codes and the project design will be reviewed by the MPD to ensure that it incorporates appropriate safety features to minimize criminal activity.

New police facilities would not be required to provide adequate police services to serve the proposed project. **(Less Than Significant Impact)**

4.14.3 Conclusion

Implementation of the proposed project would result in an increase in retail and hotel space within the City which would incrementally increase the demand for police and fire protection services in the project area. This increased demand, however, will not result in the need to construct new police or fire facilities. Due to the nature of the proposed development, the project will not impact existing school, park, or library facilities. **(Less Than Significant Impact)**

4.15 RECREATION

4.15.1 Setting

The City of Milpitas owns more than 200 acres of park and recreation facilities²⁹. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland. The nearest park to the project site is Starlite Park, located at the intersection of Rudyard Drive and North Abbott Avenue, approximately 1.3 miles northeast of the project site. Starlight Park is a 3.44-acre park with picnic tables and barbecues, horseshoe pits, a turf area, a volleyball court, and a play structure. In addition, the nearby Coyote Creek levee, located 0.10 miles west of the project site, has a walking/bicycle trail.

In addition to parkland, Milpitas has a 24,000 square foot community center located adjacent to City Hall. The community center offers preschool and after school programs as well as youth and adult classes and sports programs.

4.15.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2

4.15.2.1 Impacts to Recreational Facilities

The proposed project is the development of retail and hotel buildings and does not include any residential uses. A net increase in the daily employee population and/or hotel guest population in the City would not result in a substantial increase in usage of local recreational facilities. Although future employees or hotel guests may use City parks and recreational centers, they are unlikely to place a major physical burden on these facilities that would hasten physical deterioration of the facilities. The project would not increase the usage of existing parks and recreation facilities such that the construction of new or expanded recreational facilities would be required.

²⁹ City of Milpitas General Plan. http://www.ci.milpitas.ca.gov/government/planning/plan_general.asp Accessed February 19, 2013

4.15.3 Conclusion

The proposed project would not result in significant impacts to recreational facilities in Milpitas.
(No Impact)

4.16 TRANSPORTATION

4.16.1 Setting

The project site is currently developed with 267,606 square feet of commercial buildings and a large surface parking lot.

4.16.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,17
2. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,17
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"/>	1,2
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"/>	1,2
5. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
6. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,17

4.16.3 Conclusion

As proposed, the project would demolish 139,710 square feet of the existing commercial space and construct a 12-story, 240 room hotel with ground floor and second floor retail. The total net new

retail space would be 292,186 square feet and the hotel would be 178,692 square feet. The net increase in commercial space on-site plus a new hotel could significantly increase daily traffic trips to and from the project site.

Based on the likely increase in daily traffic trips associated with the project site, the proposed project could result in a significant and unavoidable transportation impact. The analysis of transportation impacts is presented in the EIR. No further analysis will be provided in this Initial Study.

4.17 UTILITIES AND SERVICE SYSTEMS

The following discussion is based in part on the City's 2010 Urban Water Management Plan and 2009 Sewer Master Plan Update.

4.17.1 Setting

4.17.1.1 Water Service

The City of Milpitas provides water to the project site. Currently, the source of the domestic water used in Milpitas includes the San Francisco Public Utility Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD). With minor exceptions, SFPUC water is used to supply residential areas of the City and SCVWD water is used to supply industrial areas. The City's water supply contract with SFPUC expires in 2034 and the SCVWD contract expires in 2054. The proposed project site is within the SCVWD wholesale distribution area.

The 2010 Urban Water Management Plan projects water demand and supply in the City in five year increments based upon growth assumptions in the General Plan and water use factors for various land uses. The Plan has been designed to provide sufficient water supply to all existing and planned growth.

Recycled Water

The City of Milpitas purchases water from the South Bay Water Recycling Program (SBWR) which has developed a reclaimed water system to utilize recycled water from the San José/Santa Clara Water Pollution Control Plant (WPCP) for irrigation, industrial, and other non-potable purposes. The project site is currently served by the SBWR program.

4.17.1.2 Sewer System and Wastewater Treatment

The Milpitas Sanitary Sewer Collection System is owned and maintained by the City of Milpitas. Wastewater from the City of Milpitas is treated at the San Jose/Santa Clara Water Pollution Control Plant, located near Alviso. The City of Milpitas is contractually allowed a sanitary sewer flow of 13.5 mgd.

There is currently a wastewater trunk line located in McCarthy Boulevard from Highway 237 to the Milpitas Pump Station located at Dixon Landing Road. The sanitary sewer system on-site drains into the trunk line. The trunk line ranges in size from 36- to 48-inches.

4.71.1.3 Storm Drainage System

The City of Milpitas owns and maintains the storm drainage system which serves the project site. There is a storm drain main in McCarthy Boulevard that is 24-inches near the southernmost end of the project site and expands to 48-inches north of the site. This line discharges into Coyote Creek. Coyote Creek carries the runoff into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

4.17.1.4 Solid Waste

Allied Waste Services (a private company) provides solid waste and recycling collection services for businesses located in the City of Milpitas. The City has contracted with Newby Island Landfill for disposal capacity of municipal solid waste.

4.17.2 Environmental Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,19
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"/>	1,2,19
3. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2
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 checked="" type="checkbox"/>	<input type="checkbox"/>	
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 checked="" type="checkbox"/>	<input type="checkbox"/>	
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 checked="" type="checkbox"/>	<input type="checkbox"/>	
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"/>	

4.17.2.2 Water Supply Impacts

The project does not propose any land use or zoning changes. The project does propose a small increase in allowed FAR and overall intensity of commercial development, but the increase is minimal from an overall water demand standpoint for commercial/industrial uses in the City. The proposed project is consistent with the development assumptions in the City's 2010 Urban Water Management Plan which provides a review of current and future water resources.

It is estimated that the proposed retail and hotel space will use approximately 52,900 gallons per day. Recycled water will continue to be utilized for landscape irrigation.

The City has determined that existing water supply entitlements are sufficient and no additional water supply entitlements are necessary. The Water Master Plan, which defines water system improvements necessary to meet future water demand, did not identify any deficiencies or required mitigation in the vicinity of the project site. The existing water system infrastructure has adequate capacity to serve the proposed project. In addition, the project is required to use recycled water to the maximum extent feasible. **(Less Than Significant Impact)**

4.17.2.3 Sanitary Sewer/Wastewater Impacts

The project does not propose any land use zoning changes. The project does propose a small increase in FAR, but the increase is minimal. The proposed project is in compliance with the development assumptions in the City's 2009 Sewer Master Plan. The City has sufficient capacity at the regional wastewater treatment plant for all existing and planned growth in the City under two of the three development scenarios. Future build out of the General Plan plus the Milpitas Transit Area Specific Plan would result in the City exceeding its allotted capacity at the treatment plant by 0.3 mgd.

While the 2009 Sewer Master Plan Update does identify deficiencies in the capacity of some lines within the system, the lines that serve the project site have sufficient capacity to serve the existing and planned development assumed in the Sewer Master Plan Update. The existing sanitary sewer system infrastructure has adequate capacity to serve the project. **(Less Than Significant Impact)**

4.17.2.4 Storm Drainage Impacts

The project site is currently 84 percent pervious. The proposed project will result in approximately 90 percent of the site being covered with impervious surfaces such as parking lots, buildings, and other hardscape. The remaining 10 percent of the site will be covered by landscaping and other pervious surfaces. The project will implement required stormwater treatment in compliance with the City's Stormwater C.3 Guidebook. Please see Section 4.9., *Hydrology & Water Quality* of this Initial Study for a complete discussion of the proposed C.3 Stormwater Control Plan for this project.

The existing storm drainage system was sized to accommodate full build out of the project site under the existing land use designation. Therefore, with implementation of the City's C.3 stormwater treatment requirements, the proposed project will not exceed the capacity of the existing storm drainage system. **(Less Than Significant Impact)**

4.17.2.5 Solid Waste Impacts

The proposed project would increase the total amount of solid waste generated on the project site. On average, commercial land uses generate approximately 2.5 lbs per day of garbage for every 1,000 square feet of building area and hotels generate approximately 2.0 lbs per day of garbage per room.³⁰

³⁰ California Integrated Waste Management Board.
<http://www.calrecycle.ca.gov/wastechar/WasteGenRates/default.htm> Accessed December 13, 2012.

This equates to a net increase in solid waste of 861 pounds per day over existing conditions. The existing landfill has capacity to handle the additional 861 pounds per day of waste produced from the proposed project.

The City of Milpitas is currently operating a business recycling program that complies with state-mandated waste reduction goals specified in the Public Resources Code Section 40500. This project will participate in the City's solid waste program and in the City's business recycling program which will reduce the total amount of garbage taken to the landfill. Coordination with the solid waste hauler is necessary to insure that sufficient space is allocated for the necessary facilities.

With implementation of the City's business recycling program and solid waste program, the proposed project will have a less than significant impact on solid waste facilities serving the City of Milpitas. **(Less Than Significant Impact)**

4.17.4 Conclusion

The proposed project will have a less than significant utilities and service system impact. **(Less Than Significant Impact)**

4.18

MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-19
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-19
3. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1-19
4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1-19

4.18.1. Findings

As discussed in the respective sections, the proposed project would have no impact or a less than significant impact on aesthetics, agriculture and forest lands, cultural resources, geology and soils, hydrology and water quality, mineral resources, population and housing, public services, recreation, and utilities. The project is consistent with the General Plan and, therefore, the cumulative impacts to utilities, public services, and population and housing have been addressed in the General Plan Environmental Impact Report and accounted for in the City’s long-term infrastructure service planning.

The project would have a temporary biological resources impact during construction associated with nesting birds and a long-term loss of mature trees. With the implementation of the mitigation measures the identified construction impacts would be mitigated to less than significant. The City has standard tree replacement measures required of all new development projects. Because the nature of the identified impacts are temporary and/or will be mitigated, the proposed project would not have a cumulatively considerable impact on biological resources in the project area. While more than 50 percent of project trips will originate or end in San Jose, the cumulative impacts from

regional nitrogen deposition (whether inside or outside the SCVHCP) will be feasibly mitigated by the SCVHCP's conservation strategies. Trips associated with the project are already accounted for in the SCVHCP because they would be diverted trips or new trips from new development in the SCVHCP plan area that will pay fees. Therefore, the project would not have a cumulatively considerable impact on protected species within the SCVHCP plan area.

The project would locate an outdoor dining area and a hotel in an area where the ambient noise levels exceed the conditionally acceptable noise levels for these land uses. With implementation of the proposed design measures and mitigation measures, the identified noise impacts would be mitigated to less than significant. Because the noise impacts will be mitigated and are isolated to the particular land use on the project site, the proposed project would not have a cumulatively considerable impact on noise in the project area.

There is a probability that the site has localized soil contamination related to historic agricultural operations on-site. The identified hazardous materials impacts will be mitigated and, because they are localized, would not result in a cumulatively considerable impact.

Due to the size of the proposed development, the project may have significant impacts and cumulatively considerable impacts to land use, air quality, greenhouse gas emissions, and transportation.

4.18.2 Conclusion

Implementation of the proposed project could result in significant unavoidable impacts, impacts that are cumulatively considerable, or directly or indirectly cause substantial adverse effects on human beings. **(Potentially Significant Impact)**

Checklist Sources

1. CEQA Guidelines - Environmental Thresholds (Professional judgment and expertise and review of project plans).
2. City of Milpitas, General Plan and Zoning Ordinance.
3. California Department of Conservation. *Santa Clara County Important Farmland 2010*.
4. Air Quality Analysis – Illingworth & Rodkin
5. BAAQMD CEQA Guidelines
6. Preliminary Tree Report – Concentric Ecologies
7. Santa Clara Valley Draft Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) Project. *Draft Santa Clara Valley HCP/NCCP*.
8. Archaeological Literature Review – Holman & Associates.
9. Preliminary Geotechnical Investigation – Jensen-Van Lienden Associates.
10. Greenhouse Gas Emissions Analysis – Illingworth & Rodkin
11. Phase I Environmental Site Assessment – Hoexter Consulting, Inc.
12. The Campus at McCarthy Ranch Final Environmental Impact Report.
13. Federal Emergency Management Agency, Flood Insurance Rate Maps.
14. Association of Bay Area Governments, Dam Failure Inundation Hazard Map and Tsunami Inundation Emergency Planning Map for Milpitas.
15. Noise Assessment – Charles M. Salter Associates, Inc.
16. Transportation Impact Assessment – Fehr & Peers
17. Milpitas 2010 Urban Water Management Plan
18. Milpitas Water Master Plan Update, December 2009
19. Milpitas 2009 Sewer Master Plan Update